

APPENDIX L -- SELECTED PASSAGES FROM THE FLORIDA STATUTES AND FLORIDA ADMINISTRATIVE CODE

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SELECTED PASSAGES FROM CHAPTER 373, FLORIDA STATUTES

Source: <http://www.leg.state.fl.us/statutes> on October 16, 2001

373.016 Declaration of policy.--

- (1) The waters in the state are among its basic resources. Such waters have not heretofore been conserved or fully controlled so as to realize their full beneficial use.
- (2) The department and the governing board shall take into account cumulative impacts on water resources and manage those resources in a manner to ensure their sustainability.
- (3) It is further declared to be the policy of the Legislature:
 - (a) To provide for the management of water and related land resources;
 - (b) To promote the conservation, replenishment, recapture, enhancement, development, and proper utilization of surface and ground water;
 - (c) To develop and regulate dams, impoundments, reservoirs, and other works and to provide water storage for beneficial purposes;
 - (d) To promote the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems;
 - (e) To prevent damage from floods, soil erosion, and excessive drainage;
 - (f) To minimize degradation of water resources caused by the discharge of stormwater;
 - (g) To preserve natural resources, fish, and wildlife;
 - (h) To promote the public policy set forth in s. 403.021;
 - (i) To promote recreational development, protect public lands, and assist in maintaining the navigability of rivers and harbors; and
 - (j) Otherwise to promote the health, safety, and general welfare of the people of this state.

In implementing this chapter, the department and the governing board shall construe and apply the policies in this subsection as a whole, and no specific policy is to be construed or applied in isolation from the other policies in this subsection.

(4)(a) Because water constitutes a public resource benefiting the entire state, it is the policy of the Legislature that the waters in the state be managed on a state and regional basis. Consistent with this directive, the Legislature recognizes the need to allocate water throughout the state so as to meet all reasonable-beneficial uses. However, the Legislature acknowledges that such allocations have in the past adversely affected the water resources of certain areas in this state. To protect such water resources and to meet the current and future needs of those areas with abundant water, the Legislature directs the department and the water management districts to encourage the use of water from sources nearest the area of use or application whenever practicable. Such sources shall include all naturally occurring water sources and all alternative water sources, including, but not limited to, desalination,

conservation, reuse of nonpotable reclaimed water and stormwater, and aquifer storage and recovery. Reuse of potable reclaimed water and stormwater shall not be subject to the evaluation described in s. 373.223(3)(a)-(g). However, this directive to encourage the use of water, whenever practicable, from sources nearest the area of use or application shall not apply to the transport and direct and indirect use of water within the area encompassed by the Central and Southern Florida Flood Control Project, nor shall it apply anywhere in the state to the transport and use of water supplied exclusively for bottled water as defined in s. 500.03(1)(d), nor shall it apply to the transport and use of reclaimed water for electrical power production by an electric utility as defined in section 366.02(2).

(b) In establishing the policy outlined in paragraph (a), the Legislature realizes that under certain circumstances the need to transport water from distant sources may be necessary for environmental, technical, or economic reasons.

(5) The Legislature recognizes that the water resource problems of the state vary from region to region, both in magnitude and complexity. It is therefore the intent of the Legislature to vest in the Department of Environmental Protection or its successor agency the power and responsibility to accomplish the conservation, protection, management, and control of the waters of the state and with sufficient flexibility and discretion to accomplish these ends through delegation of appropriate powers to the various water management districts. The department may exercise any power herein authorized to be exercised by a water management district; however, to the greatest extent practicable, such power should be delegated to the governing board of a water management district.

(6) It is further declared the policy of the Legislature that each water management district, to the extent consistent with effective management practices, shall approximate its fiscal and budget policies and procedures to those of the state.

History.--s. 2, part I, ch. 72-299; s. 36, ch. 79-65; s. 70, ch. 83-310; s. 5, ch. 89-279; s. 20, ch. 93-213; s. 250, ch. 94-356; s. 1, ch. 97-160; s. 1, ch. 98-88.

373.036 Florida water plan; district water management plans.--

(1) FLORIDA WATER PLAN.--In cooperation with the water management districts, regional water supply authorities, and others, the department shall develop the Florida water plan. The Florida water plan shall include, but not be limited to:

(a) The programs and activities of the department related to water supply, water quality, flood protection and floodplain management, and natural systems.

(b) The water quality standards of the department.

(c) The district water management plans.

(d) Goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The state water policy rule, renamed the water resource implementation rule pursuant to s. 373.019(20), shall serve as this part of the plan. Amendments or additions to this part of the Florida water plan shall be adopted by the department as part of the water resource implementation rule. In accordance with s. 373.114, the department shall review rules of the water management districts for consistency with this rule. Amendments to the water resource implementation rule must be adopted by the secretary of the department and be submitted to the President of the Senate and the Speaker of the House of Representatives within 7 days after publication in the Florida Administrative Weekly. Amendments shall not become effective until the conclusion of the next regular session of the Legislature following their adoption.

(2) DISTRICT WATER MANAGEMENT PLANS.--

(a) Each governing board shall develop a district water management plan for water resources within its region, which plan addresses water supply, water quality, flood protection and floodplain management, and natural systems. The district water management plan shall be based on at least a 20-year planning period, shall be developed and revised in cooperation with other agencies, regional water supply authorities, units of government, and interested parties, and shall be updated at least once every 5 years. The governing board shall hold a public hearing at least 30 days in advance of completing the development or revision of the district water management plan.

(b) The district water management plan shall include, but not be limited to:

1. The scientific methodologies for establishing minimum flows and levels under s. 373.042, and all established minimum flows and levels.

2. Identification of one or more water supply planning regions that singly or together encompass the entire district.

3. Technical data and information prepared under ss. 373.0391 and 373.0395.

4. A districtwide water supply assessment, to be completed no later than July 1, 1998, which determines for each water supply planning region:
 - a. Existing legal uses, reasonably anticipated future needs, and existing and reasonably anticipated sources of water and conservation efforts; and
 - b. Whether existing and reasonably anticipated sources of water and conservation efforts are adequate to supply water for all existing legal uses and reasonably anticipated future needs and to sustain the water resources and related natural systems.
 5. Any completed regional water supply plans.
- (c) If necessary for implementation, the governing board shall adopt by rule or order relevant portions of the district water management plan, to the extent of its statutory authority.
- (d) In the formulation of the district water management plan, the governing board shall give due consideration to:
1. The attainment of maximum reasonable-beneficial use of water resources.
 2. The maximum economic development of the water resources consistent with other uses.
 3. The management of water resources for such purposes as environmental protection, drainage, flood control, and water storage.
 4. The quantity of water available for application to a reasonable-beneficial use.
 5. The prevention of wasteful, uneconomical, impractical, or unreasonable uses of water resources.
 6. Presently exercised domestic use and permit rights.
 7. The preservation and enhancement of the water quality of the state.
 8. The state water resources policy as expressed by this chapter.
- (3) The department and governing board shall give careful consideration to the requirements of public recreation and to the protection and procreation of fish and wildlife. The department or governing board may prohibit or restrict other future uses on certain designated bodies of water which may be inconsistent with these objectives.
- (4) The governing board may designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would constitute an undesirable use for which the governing board may deny a permit.
- (5) The governing board may designate certain uses in connection with a particular source of supply which, because of the nature of the activity or the amount of water required, would result in an enhancement or improvement of the water resources of the area. Such uses shall be preferred over other uses in the event of competing applications under the permitting systems authorized by this chapter.
- (6) The department, in cooperation with the Executive Office of the Governor, or its successor agency, may add to the Florida water plan any other information, directions, or objectives it deems necessary or desirable for the guidance of the governing boards or other agencies in the administration and enforcement of this chapter.

History.—s. 6, part I, ch. 72-299; ss. 2, 3, ch. 73-190; s. 122, ch. 79-190; s. 3, ch. 97-160; s. 7, ch. 98-88; s. 164, ch. 99-13.

373.0361 Regional water supply planning.--

(1) By October 1, 1998, the governing board shall initiate water supply planning for each water supply planning region identified in the district water management plan under s. 373.036, where it determines that sources of water are not adequate for the planning period to supply water for all existing and projected reasonable-beneficial uses and to sustain the water resources and related natural systems. The planning must be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water utilities, self-suppliers, and other affected and interested parties. A determination by the governing board that initiation of a regional water supply plan for a specific planning region is not needed pursuant to this section shall be subject to s. 120.569. The governing board shall reevaluate such a determination at least once every 5 years and shall initiate a regional water supply plan, if needed, pursuant to this subsection.

(2) Each regional water supply plan shall be based on at least a 20-year planning period and shall include, but not be limited to:

(a) A water supply development component that includes:

1. A quantification of the water supply needs for all existing and reasonably projected future uses within the planning horizon. The level-of-certainty planning goal associated with identifying the water supply needs of existing and future reasonable-beneficial uses shall be based upon meeting those needs for a 1-in-10-year drought event.

2. A list of water source options for water supply development, including traditional and alternative sources, from which local government, government-owned and privately owned utilities, self-suppliers, and others may choose, which will exceed the needs identified in subparagraph 1.

3. For each option listed in subparagraph 2., the estimated amount of water available for use and the estimated costs of and potential sources of funding for water supply development.

4. A list of water supply development projects that meet the criteria in s. 373.0831(4).

(b) A water resource development component that includes:

1. A listing of those water resource development projects that support water supply development.

2. For each water resource development project listed:

a. An estimate of the amount of water to become available through the project.

- b. The timetable for implementing or constructing the project and the estimated costs for implementing, operating, and maintaining the project.
- c. Sources of funding and funding needs.
- d. Who will implement the project and how it will be implemented.
- (c) The recovery and prevention strategy described in s. 373.0421(2).
- (d) A funding strategy for water resource development projects, which shall be reasonable and sufficient to pay the cost of constructing or implementing all of the listed projects.
- (e) Consideration of how the options addressed in paragraphs (a) and (b) serve the public interest or save costs overall by preventing the loss of natural resources or avoiding greater future expenditures for water resource development or water supply development. However, unless adopted by rule, these considerations do not constitute final agency action.
- (f) The technical data and information applicable to the planning region which are contained in the district water management plan and are necessary to support the regional water supply plan.
- (g) The minimum flows and levels established for water resources within the planning region.
- (3) Regional water supply plans initiated or completed by July 1, 1997, shall be revised, if necessary, to include a water supply development component and a water resource development component as described in paragraphs (2)(a) and (b).
- (4) Governing board approval of a regional water supply plan shall not be subject to the rulemaking requirements of chapter 120. However, any portion of an approved regional water supply plan which affects the substantial interests of a party shall be subject to s. 120.569.
- (5) By November 15, 1997, and annually thereafter, the department shall submit to the Governor and the Legislature a report on the status of regional water supply planning in each district. The report shall include:
 - (a) A compilation of the estimated costs of and potential sources of funding for water resource development and water supply development projects, as identified in the water management district regional water supply plans.
 - (b) A description of each district's progress toward achieving its water resource development objectives, as directed by s. 373.0831(3), including the district's implementation of its 5-year water resource development work program.
- (6) Nothing contained in the water supply development component of the district water management plan shall be construed to require local governments, government-owned or privately owned water utilities, self-suppliers, or other water suppliers to select a water supply development option identified in the component merely because it is identified in the plan. However, this subsection shall not be construed to limit the authority of the department or governing board under part II.

History.--s. 4, ch. 97-160.

373.042 Minimum flows and levels.--

(1) Within each section, or the water management district as a whole, the department or the governing board shall establish the following:

(a) Minimum flow for all surface watercourses in the area. The minimum flow for a given watercourse shall be the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area.

(b) Minimum water level. The minimum water level shall be the level of groundwater in an aquifer and the level of surface water at which further withdrawals would be significantly harmful to the water resources of the area.

The minimum flow and minimum water level shall be calculated by the department and the governing board using the best information available. When appropriate, minimum flows and levels may be calculated to reflect seasonal variations. The department and the governing board shall also consider, and at their discretion may provide for, the protection of nonconsumptive uses in the establishment of minimum flows and levels.

(2) By July 1, 1996, the Southwest Florida Water Management District shall amend and submit to the department for review and approval its priority list for the establishment of minimum flows and levels and delineating the order in which the governing board shall establish the minimum flows and levels for surface watercourses, aquifers, and surface water in the counties of Hillsborough, Pasco, and Pinellas. By November 15, 1997, and annually thereafter, each water management district shall submit to the department for review and approval a priority list and schedule for the establishment of minimum flows and levels for surface watercourses, aquifers, and surface waters within the district. The priority list shall also identify those water bodies for which the district will voluntarily undertake independent scientific peer review. By January 1, 1998, and annually thereafter, each water management district shall publish its approved priority list and schedule in the Florida Administrative Weekly. The priority list shall be based upon the importance of the waters to the state or region and the existence of or potential for significant harm to the water resources or ecology of the state or region, and shall include those waters which are experiencing or may reasonably be expected to experience adverse impacts. The priority list and schedule shall not be subject to any proceeding pursuant to chapter 120. Except as provided in subsection (3), the development of a priority list and compliance with the schedule for the establishment of minimum flows and levels pursuant to this subsection shall satisfy the requirements of subsection (1).

(3) Minimum flows or levels for priority waters in the counties of Hillsborough, Pasco, and Pinellas shall be established by October 1, 1997. Where a minimum flow or level for the priority waters within those counties has not been established by the applicable deadline, the secretary of the department shall, if requested by the governing body of any local government within whose jurisdiction the affected waters are located, establish the minimum flow or level in accordance with the procedures established by this section. The department's reasonable costs in establishing a minimum flow or level shall, upon request of the secretary, be reimbursed by the district.

(4)(a) Upon written request to the department or governing board by a substantially affected person, or by decision of the department or governing board, prior to the establishment of a minimum flow or level and prior to the filing of any petition for administrative hearing related to the minimum flow or level, all scientific or technical data, methodologies, and models, including all scientific and technical assumptions employed in each model, used to establish a minimum flow or level shall be subject to independent scientific peer review. Independent scientific peer review means review by a panel of independent, recognized experts in the fields of hydrology, hydrogeology, limnology, biology, and other scientific disciplines, to the extent relevant to the establishment of the minimum flow or level.

(b) If independent scientific peer review is requested, it shall be initiated at an appropriate point agreed upon by the department or governing board and the person or persons requesting the peer review. If no agreement is reached, the department or governing board shall determine the appropriate point at which to initiate peer review. The members of the peer review panel shall be selected within 60 days of the point of initiation by agreement of the department or governing board and the person or persons requesting the peer review. If the panel is not selected within the 60-day period, the time limitation may be waived upon the agreement of all parties. If no waiver occurs, the department or governing board may proceed to select the peer review panel. The cost of the peer review shall be borne equally by the district and each party requesting the peer review, to the extent economically feasible. The panel shall submit a final report to the governing board within 120 days after its selection unless the deadline is waived by agreement of all parties. Initiation of peer review pursuant to this paragraph shall toll any applicable deadline under chapter 120 or other law or district rule regarding permitting, rulemaking, or administrative hearings, until 60 days following submittal of the final report. Any such deadlines shall also be tolled for 60 days following withdrawal of the request or following agreement of the parties that peer review will no longer be pursued. The department or the governing board shall give significant weight to the final report of the peer review panel when establishing the minimum flow or level.

(c) If the final data, methodologies, and models, including all scientific and technical assumptions employed in each model upon which a minimum flow or level is based, have undergone peer review pursuant to this subsection, by request or by decision of the department or governing board, no further peer review shall be required with respect to that minimum flow or level.

(d) No minimum flow or level adopted by rule or formally noticed for adoption on or before May 2, 1997, shall be subject to the peer review provided for in this subsection.

(5) If a petition for administrative hearing is filed under chapter 120 challenging the establishment of a minimum flow or level, the report of an independent scientific peer review conducted under subsection (4) is admissible as evidence in the final hearing, and the administrative law judge must render the order within 120 days after the filing of the petition. The time limit for rendering the order shall not be extended except by agreement of all the parties. To the extent that the parties agree to the findings of the peer review, they may stipulate that those findings be incorporated as findings of fact in the final order.

History.--s. 6, part I, ch. 72-299; s. 2, ch. 73-190; s. 2, ch. 96-339; s. 5, ch. 97-160.

373.0421 Establishment and implementation of minimum flows and levels.--**(1) ESTABLISHMENT.--**

(a) *Considerations.*--When establishing minimum flows and levels pursuant to s. 373.042, the department or governing board shall consider changes and structural alterations to watersheds, surface waters, and aquifers and the effects such changes or alterations have had, and the constraints such changes or alterations have placed, on the hydrology of an affected watershed, surface water, or aquifer, provided that nothing in this paragraph shall allow significant harm as provided by s. 373.042(1) caused by withdrawals.

(b) Exclusions.--

1. The Legislature recognizes that certain water bodies no longer serve their historical hydrologic functions. The Legislature also recognizes that recovery of these water bodies to historical hydrologic conditions may not be economically or technically feasible, and that such recovery effort could cause adverse environmental or hydrologic impacts. Accordingly, the department or governing board may determine that setting a minimum flow or level for such a water body based on its historical condition is not appropriate.

2. The department or the governing board is not required to establish minimum flows or levels pursuant to s. 373.042 for surface water bodies less than 25 acres in area, unless the water body or bodies, individually or cumulatively, have significant economic, environmental, or hydrologic value.

3. The department or the governing board shall not set minimum flows or levels pursuant to s. 373.042 for surface water bodies constructed prior to the requirement for a permit, or pursuant to an exemption, a permit, or a reclamation plan which regulates the size, depth, or function of the surface water body under the provisions of this chapter, chapter 378, or chapter 403, unless the constructed surface water body is of significant hydrologic value or is an essential element of the water resources of the area.

The exclusions of this paragraph shall not apply to the Everglades Protection Area, as defined in s. 373.4592(2)(h).

(2) If the existing flow or level in a water body is below, or is projected to fall within 20 years below, the applicable minimum flow or level established pursuant to s. 373.042, the department or governing board, as part of the regional water supply plan described in s. 373.0361, shall expeditiously implement a recovery or prevention strategy, which includes the development of additional water supplies and other actions, consistent with the authority granted by this chapter, to:

(a) Achieve recovery to the established minimum flow or level as soon as practicable; or

(b) Prevent the existing flow or level from falling below the established minimum flow or level.

The recovery or prevention strategy shall include phasing or a timetable which will allow for the provision of sufficient water supplies for all existing and projected reasonable-beneficial uses, including development of additional water supplies and implementation of conservation and other efficiency measures concurrent with, to the extent practical, and to offset, reductions in permitted withdrawals, consistent with the provisions of this chapter.

(3) The provisions of this section are supplemental to any other specific requirements or authority provided by law. Minimum flows and levels shall be reevaluated periodically and revised as needed.

History.--s. 6, ch. 97-160.

373.223 Conditions for a permit.--

(1) To obtain a permit pursuant to the provisions of this chapter, the applicant must establish that the proposed use of water:

- (a) Is a reasonable-beneficial use as defined in s. 373.019;
- (b) Will not interfere with any presently existing legal use of water; and
- (c) Is consistent with the public interest.

(2) The governing board or the department may authorize the holder of a use permit to transport and use ground or surface water beyond overlying land, across county boundaries, or outside the watershed from which it is taken if the governing board or department determines that such transport and use is consistent with the public interest, and no local government shall adopt or enforce any law, ordinance, rule, regulation, or order to the contrary.

(3) Except for the transport and use of water supplied by the Central and Southern Florida Flood Control Project, and anywhere in the state when the transport and use of water is supplied exclusively for bottled water as defined in s. 500.03(1)(d), any water use permit applications pending as of April 1, 1998, with the Northwest Florida Water Management District and self-suppliers of water for which the proposed water source and area of use or application are located on contiguous private properties, when evaluating whether a potential transport and use of ground or surface water across county boundaries is consistent with the public interest, pursuant to paragraph (1)(c), the governing board or department shall consider:

- (a) The proximity of the proposed water source to the area of use or application.
- (b) All impoundments, streams, groundwater sources, or watercourses that are geographically closer to the area of use or application than the proposed source, and that are technically and economically feasible for the proposed transport and use.
- (c) All economically and technically feasible alternatives to the proposed source, including, but not limited to, desalination, conservation, reuse of nonpotable reclaimed water and stormwater, and aquifer storage and recovery.
- (d) The potential environmental impacts that may result from the transport and use of water from the proposed source, and the potential environmental impacts that may result from use of the other water sources identified in paragraphs (b) and (c).
- (e) Whether existing and reasonably anticipated sources of water and conservation efforts are adequate to supply water for existing legal uses and reasonably anticipated future needs of the water supply planning region in which the proposed water source is located.
- (f) Consultations with local governments affected by the proposed transport and use.
- (g) The value of the existing capital investment in water-related infrastructure made by the applicant.

Where districtwide water supply assessments and regional water supply plans have been prepared pursuant to ss. 373.036 and 373.0361, the governing board or the department shall use the applicable plans and assessments as the basis for its consideration of the applicable factors in this subsection.

(4) The governing board or the department, by regulation, may reserve from use by permit applicants, water in such locations and quantities, and for such seasons of the year, as in its judgment may be required for the protection of fish and wildlife or the public health and safety. Such reservations shall be subject to periodic review and revision in the light of changed conditions. However, all presently existing legal uses of water shall be protected so long as such use is not contrary to the public interest.

History.--s. 3, part II, ch. 72-299; s. 10, ch. 73-190; s. 10, ch. 76-243; s. 35, ch. 85-81; s. 4, ch. 98-88.

373.246 Declaration of water shortage or emergency.--

(1) The governing board or the department by regulation shall formulate a plan for implementation during periods of water shortage. As a part of this plan the governing board or the department shall adopt a reasonable system of water-use classification according to source of water supply; method of extraction, withdrawal, or diversion; or use of water or a combination thereof. The plan may include provisions for variances and alternative measures to prevent undue hardship and ensure equitable distribution of water resources.

(2) The governing board or the department by order may declare that a water shortage exists for a source or sources within all or part of the district when insufficient water is or will be available to meet the present and anticipated requirements of the users or when conditions are such as to require temporary reduction in total use within the area to protect water resources from serious harm. Such orders will be final agency action.

(3) In accordance with the plan adopted under subsection (1), the governing board or the department may impose such restrictions on one or more classes of water uses as may be necessary to protect the water resources of the area from serious harm and to restore them to their previous condition.

(4) A declaration of water shortage and any measures adopted pursuant thereto may be rescinded by the governing board or the department.

(5) When a water shortage is declared, the governing board or the department shall cause notice thereof to be published in a prominent place within a newspaper of general circulation throughout the area. Publication of such notice will serve as notice to all users in the area of the condition of water shortage.

(6) The governing board or the department shall notify each permittee in the district by regular mail of any change in the condition of his or her permit or any suspension of his or her permit or of any other restriction on the permittee's use of water for the duration of the water shortage.

(7) If an emergency condition exists due to a water shortage within any area of the district, and if the department, or the executive director of the district with the concurrence of the governing board, finds that the exercise of powers under subsection (1) is not sufficient to protect the public health, safety, or welfare; the health of animals, fish, or aquatic life; a public water supply; or recreational, commercial, industrial, agricultural, or other reasonable uses, it or he or she may, pursuant to the provisions of s. 373.119, issue emergency orders reciting the existence of such an emergency and requiring that such action, including, but not limited to, apportioning, rotating, limiting, or prohibiting the use of the water resources of the district, be taken as the department or the executive director deems necessary to meet the emergency.

(8) An affected party to whom an emergency order is directed under subsection (7) shall comply immediately, but may challenge such an order in the manner set forth in s. 373.119.

History.--s. 10, part II, ch. 72-299; s. 14, ch. 78-95; s. 11, ch. 82-101; s. 10, ch. 84-341; s. 601, ch. 95-148; s. 168, ch. 99-13.

SELECTED PASSAGES FROM CHAPTER 258, FLORIDA STATUTES

Source: <http://www.leg.state.fl.us/statutes> on May 10, 2002

258.037 Policy of division.--It shall be the policy of the Division of Recreation and Parks: To promote the state park system for the use, enjoyment, and benefit of the people of Florida and visitors; to acquire typical portions of the original domain of the state which will be accessible to all of the people, and of such character as to emblemize the state's natural values; conserve these natural values for all time; administer the development, use and maintenance of these lands and render such public service in so doing, in such a manner as to enable the people of Florida and visitors to enjoy these values without depleting them; to contribute materially to the development of a strong mental, moral, and physical fiber in the people; to provide for perpetual preservation of historic sites and memorials of statewide significance and interpretation of their history to the people; to contribute to the tourist appeal of Florida.

History.--s. 12, ch. 25353, 1949; ss. 25, 35, ch. 69-106.

Note.--Former s. 592.12.

SELECTED PASSAGES FROM CHAPTER 40E-2, FLORIDA ADMINISTRATIVE CODE

Source: <http://fac.dos.state.fl.us/fac/> on November 13, 2000

CHAPTER 40E-2 CONSUMPTIVE USE

40E-2.010	Review of Consumptive Use Permit Applications.
40E-2.011	Policy and Purpose.
40E-2.031	Implementation.
40E-2.041	Permits Required.
40E-2.051	Exemptions.
40E-2.091	Publications Incorporated by Reference.
40E-2.101	Content of Application.
40E-2.301	Conditions for Issuance of Permits.
40E-2.321	Duration of Permit.
40E-2.331	Modification of Permits.
40E-2.341	Revocation of Permits.
40E-2.351	Transfer of Permits.
40E-2.381	Limiting Conditions.
40E-2.441	Temporary Permits.
40E-2.451	Emergency Authorization.
40E-2.501	Permit Classification.
40E-2.511	Declaration of Water Shortage. (Repealed)
40E-2.521	Change, Suspension or Restriction of Permits During Water Shortage. (Repealed)
40E-2.531	Procedures Under Water Shortage. (Repealed)
40E-2.541	Declaration of Emergency Due to Water Shortage. (Repealed)
40E-2.551	Procedures Under Emergency Due to Water Shortage. (Repealed)

40E-2.010 Review of Consumptive Use Permit Applications.

Consumptive use permit applications are processed pursuant to Section 120.60, F.S., Part VI of Chapter 40E-1, F.A.C., and Chapter 28-107, F.A.C.

Specific Authority 120.54(5), 120.60 FS. Law Implemented 120.54(5), 120.60 FS. History—New 7-2-98.

40E-2.011 Policy and Purpose.

(1) It is the policy of the District to control all water uses within its boundaries, pursuant to the provisions of Chapter 373, Florida Statutes, and Chapter 17-40 and Title 40E, F.A.C.

(2) The rules in this chapter implement the comprehensive water use permit system contemplated in Part II of Chapter 373, Florida Statutes.

(3) Additional rules relating to water use are found in Chapter 40E-20 (General Water Use Permits), Chapter 40E-21 (The Water Shortage Plan), Chapter 40E-22 (Regional Water Shortage Plans) and Chapter 40E-23 (Critical Water Supply Problem Areas).

(4) Standards for the construction, repair and abandonment of water wells are found in Chapter 40E-3 (Water Wells) and Chapter 40E-30 (General Permits for Water Wells).

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.103(1), 373.203, 373.216 – .249 FS. History—New 9-3-81, Formerly 16K-2.01, Amended 7-4-82, 2-24-85, 11-18-91.

40E-2.031 Implementation.

(1) The effective dates for the water use permitting program established in this chapter are:

(a) If the use or withdrawal of water exceeds 100,000 gallons per day, the effective dates are:

1. January 12, 1977, for the portion of the District formerly within the Ridge and Lower Gulf Coast Water Management District,

2. March 2, 1974, for the remainder of the District;

(b) If the use or withdrawal of water does not exceed 100,000 gallons per day, the effective date is January 14, 1979.

(2) The effective dates specified in subsection (1) are used to determine the two year period provided in Section 373.266, Florida Statutes, for existing water users to file initial applications.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.103(1), 373.216, 373.226 FS. History—New 9-3-81, Formerly 16K-2.011.

40E-2.041 Permits Required.

(1) Unless expressly exempt by law or District rule, a water use permit must be obtained from the District prior to any use or withdrawal of water.

(2) The District issues water use permits in two forms, individual water use permits and general water use permits. An individual water use permit may be obtained by meeting the requirements of this chapter. Chapter 40E-20 provides the requirements for qualifying for a general water use permit.

(3) Under certain circumstances the Board or the Executive Director may issue a temporary water use permit pursuant to Rule 40E-2.441 and Section 373.244, Florida Statutes.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.103(1), 373.219, 373.244 FS. History—New 9-3-81, Formerly 16K-2.03(1), (2).

40E-2.051 Exemptions.

No permit is required under Rule 40E-2.041 for the following water uses:

- (1) Water used strictly for domestic use at a single family dwelling or duplex provided that the water is obtained from one withdrawal facility for each single family dwelling or duplex.
- (2) Water used strictly for fire fighting purposes, and
- (3) Water used at a single family dwelling or duplex including but not limited to home lawn and ornamental irrigation, car washing, and other incidental uses provided that the water is obtained from one withdrawal facility for each single family dwelling or duplex.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.219 FS. History—New 9-3-81, Formerly 16K-2.025, Amended 2-24-85, 4-20-94.

40E-2.091 Publications Incorporated by Reference.

(1) The "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – October 1997", is hereby published by reference and incorporated into this chapter.

(2) The document listed in subsection (1) is published by the District and is available from the District upon request.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.219, 373.223, 373.224, 373.229, 373.232, 373.233, 373.236, 373.239 FS. History—New 9-3-81, Formerly 16K-2.035(1), Amended 2-24-85, 11-21-89, 1-4-93, 4-20-94, 11-26-95, 7-11-96, 4-9-97, 12-10-97.

40E-2.101 Content of Application.

(1) Applications for permits required by this chapter shall be filed with the District. The application shall contain:

(a) The following parts of Form 0645 Surface Water Management Permit Applications and/or Water Use Permit Applications, as incorporated by reference in Rule 40E-1.659:

1. Part RC-1A Administrative Information for Surface Water Management Permit Applications and/or Water Use Permit Applications;

2. Part RC-1W Application for a Water Use Permit;

(b) The appropriate permit application processing fee required by Rule 40E-1.607;

(c) The information required in subsection 373.229(1), Florida Statutes; and

(d) Information sufficient to show that the use meets the criteria and conditions established in Rule 40E-2.301.

(2) The application must be signed by the applicant or the authorized agent of the applicant.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.103(1), 373.219, 373.223, 373.229 FS. History—New 9-3-81, Amended 12-1-82, 2-24-85, 11-21-89, Repromulgated 1-4-93, Amended 4-20-94.

40E-2.301 Conditions for Issuance of Permits.

(1) In order to obtain a permit, permit renewal, or permit modification under this chapter, an applicant must give reasonable assurances that the proposed water use at the time the permit application is deemed complete:

(a) will not cause significant saline water intrusion;

(b) will not adversely impact offsite land uses;

(c) will not cause adverse environmental impacts;

(d) will not cause pollution of the water resources;

(e) is otherwise a reasonable-beneficial use as defined in subsection 373.019(4), Florida Statutes, with consideration given to the factors set forth in Rule 17-40.401(2);

(f) will not interfere with presently existing legal uses;

(g) is in accordance with the State Water Policy on water transport pursuant to Rule 17-40.402;

(h) makes use of a reclaimed water source unless the applicant, in any geographic location, demonstrates that its use is either not economically, environmentally or technically feasible; or in areas not designated as Critical Water Supply Problem Areas pursuant to Chapter 40E-23, F.A.C., the applicant demonstrates reclaimed water is not readily available; and

(i) is consistent with Sections 373.016, 373.036, Florida Statutes, and otherwise is consistent with the public interest as prescribed by Chapter 373 and this Chapter.

(2) In order to satisfy the conditions for permit issuance in subsection (1), the permit applicant must provide reasonable assurances that the criteria in the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – October 1997", incorporated by reference in Rule 40E-2.091(1), are met.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.023, 373.185, 373.219, 373.223, 373.226, 373.236 FS. History–New 9-3-81, Formerly 16K-2.035(2), Amended 2-24-85, 1-4-93, 4-20-94, 7-11-96, 4-9-97, 12-10-97.

40E-2.321 Duration of Permit.

(1) Unless revoked or otherwise modified, the duration of a water use permit issued pursuant to this chapter is the lesser of:

(a) The time period for which the permit applicant demonstrates that water will be available to meet the projected demands and during which the conditions for issuance of a permit in Rule 40E-2.301 will be met.

(b) The time period for which the permit applicant demonstrates legal control.

(2) In addition to the duration limitation in subsection (1) above, the permit durations for specific uses shall not exceed the following time periods:

(a) For public water supply and industrial water uses, the period shall not exceed 10 years.

(b) For dewatering water uses, the period shall not exceed 3 years.

(c) For irrigation uses, the period shall not exceed the basin expiration date as specified in the document described in Rule 40E-2.091 as applicable to the location of the project.

(d) For aquifer remediations, the period shall not exceed that required to complete the operation as specified in the Remedial Action Plan approved by the state or local agency having legal jurisdiction over such activities or 20 years, whichever is less.

(e) For all other uses, the period shall not exceed 10 years.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.236 FS. History–New 9-3-81, Amended 2-24-85, 4-20-94, 7-11-96.

40E-2.331 Modification of Permits.

(1) A permittee shall apply to the Board for approval of any modification of an unexpired permit pursuant to Section 373.239, Florida Statutes. The Executive Director shall initiate proceedings to modify a permit pursuant to Rule 40E-1.609, F.A.C.

(2) Applications for modification, except letter modifications issued pursuant to subsection (4), shall contain the information required in Rule 40E-2.101, will be evaluated using the criteria specified in Rule 40E-2.301 and will be subject to the limiting conditions specified in Rule 40E-2.381. Modifications shall be approved if criteria in Rule 40E-2.301 are met.

(3) Proposed increases in allocation will be treated as new uses to the extent the proposed allocation exceeds the existing allocation.

(4)(a) Modification of an existing water use permit shall be approved by letter, provided the permit is in compliance with all applicable limiting conditions and the modification request:

1. does not result in an increase in the amount of the permit allocation;

2. does not modify the existing permit expiration date, except that when the permit duration is based upon the current lease expiration date, the permit duration shall be extended by letter modification to the new lease date, but shall not exceed the applicable permit duration pursuant to Rule 40E-2.321;

3. does not potentially interfere with any presently existing legal use of water, cause adverse environmental impacts, saltwater intrusion, pollution of the water resources, adverse impacts to offsite land uses, or does not otherwise raise issues requiring a Staff determination of whether such impacts would occur pursuant to the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – October 1997", incorporated by reference in Rule 40E-2.091(1); and,

4. does not change the permitted withdrawal source(s) or use classification.

5. does not result in a modification of the permit which must be approved by the Governing Board pursuant to Section 373.239(2), F.S.

(b) The timeframes set forth in Rule 40E-1.606 shall apply to the processing of letter modifications.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.223, 373.229, 373.239 FS. History–New 9-3-81, Formerly 16K-2.09(1), Amended 4-20-94, 7-11-96, 4-9-97, 12-10-97.

40E-2.341 Revocation of Permits.

Violations of this chapter may result in the revocation or suspension of the authorization in whole or in part in accordance with the provisions of Chapter 373, including Sections 373.119 and 373.243, F.S., Chapter 120, F.S., and Rules 40E-1.609, and 28-107.004, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 120.60(6), 373.103(4), 373.219, 373.229 FS. History–New 4-20-94, Amended 7-2-98.

40E-2.351 Transfer of Permits.

A permittee must comply with the requirements of Rule 40E-1.6107 in order to obtain a permit transfer to a new permittee. If the permit transfer is in conjunction with an application for permit modification, the permit shall be transferred at the time of permit modification if all applicable permit transfer criteria are met. Upon approval, all terms and conditions of the permit shall be binding on the transferee.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.223, 373.229, 373.239 FS. History–New 9-3-81, Formerly 16K-2.09(2), Amended 4-20-94.

40E-2.381 Limiting Conditions.

The Board shall impose on any permit granted under this chapter such reasonable standard and special permit conditions as are necessary to assure that the permitted use or withdrawal will be consistent with the overall objectives of the District, will not be harmful to the water resources of the District, is reasonable-beneficial, will not interfere with any presently existing legal uses, and is consistent with the public interest. Standard permit conditions in Section 5.1 of the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – October 1997", incorporated by reference in Rule 40E-2.091(1) shall be set forth in the permit. Special permit conditions, including those specified in Section 5.2 of the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – October 1997", shall be set forth in the permit.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.219(1) FS. History–New 9-3-81, Amended 2-24-85, 7-26-87, 4-20-94, 7-11-96, 4-9-97, 12-10-97.

40E-2.441 Temporary Permits.

The Board or the Executive Director may issue temporary water use permits under the provisions of Section 373.244, Florida Statutes.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.244 FS. History–New 9-3-81, Amended 4-20-94.

40E-2.451 Emergency Authorization.

(1) Permission to begin use, withdrawal, or diversion of water prior to the issuance of a permit may be applied for in writing, when emergency conditions exist which would justify such permission. However, no such permission shall be granted unless the use, withdrawal, or diversion is already being considered for a permit under Rule 40E-2.041. A serious set of unforeseen or unforeseeable circumstances must exist to create an emergency. Mere carelessness or lack of planning on the part of the applicant shall not be sufficient grounds to warrant the granting of emergency authorization.

(2) Emergency authorizations shall be administered pursuant to Rule 40E-1.6115, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 120.60(5), 373.219 FS. History–New 9-3-81, Formerly 16K-2.11, Amended 4-20-94, 7-2-98.

40E-2.501 Permit Classification.

Each water use permit shall be classified according to source, use and method of withdrawal. The source use and method of withdrawal classes are listed in Rules 40E-21.611 through 40E-21.691.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.246 FS. History–New 9-3-81, Formerly 16K-2.12(2), Amended 7-4-82.

Source: <http://www.nps.gov/rivers/wsract.html> on May 7, 2001

Wild and Scenic Rivers Act

(P.L. 90-542, as amended)
(16 U.S.C. 1271-1287)

¹An Act

To provide for a National Wild and Scenic Rivers System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that,

(a) this Act may be cited as the "Wild and Scenic Rivers Act."

Congressional declaration of policy.

(b) It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes.

Congressional declaration of purpose.

(c) The purpose of this Act is to implement this policy by instituting a national wild and scenic rivers system, by designating the initial components of that system, and by prescribing the methods by which and standards according to which additional components may be added to the system from time to time.

Composition of system; requirements for State-administered components.

SECTION 2. (a) The national wild and scenic rivers system shall comprise rivers (i) that are authorized for inclusion therein by Act of Congress, or (ii) that are designated as wild, scenic or recreational rivers by or pursuant to an act of the legislature of the State or States through which they flow, that are to be permanently administered as wild, scenic or recreational rivers by an agency or political subdivision of the State or States concerned, that are found by the Secretary of the Interior, upon application of the Governor of the State or the Governors of the States concerned, or a person or persons thereunto duly appointed by him or them, to meet the criteria established in this Act and such criteria supplementary thereto as he may prescribe, and that are approved by him for inclusion in the system, including, upon application of the Governor of the State concerned, the Allagash Wilderness Waterway, Maine; that segment of the Wolf River, Wisconsin, which flows through Langlade County; and that segment of the New River in North Carolina extending from its confluence with Dog Creek downstream approximately 26.5 miles to the Virginia State line. Upon receipt of an application under clause (ii) of this subsection, the Secretary shall notify the Federal Energy Regulatory Commission and publish such application in the *Federal Register*. Each river designated under clause (ii) shall be administered by the State or political subdivision thereof without expense to the United States other than for administration and management of federally owned lands. For purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation [Fund] Act of 1965 or any other provision of law shall not be treated as an expense to the United States. Nothing in this subsection shall be construed to provide for the transfer to, or administration by, a State or local authority of any federally owned lands which are within the boundaries of any river included within the system under clause (ii).

Classification.

(b) A wild, scenic or recreational river area eligible to be included in the system is a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in Section 1, subsection (b) of this Act. Every wild, scenic or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the national wild and scenic rivers system and, if included, shall be classified, designated, and administered as one of the following:

(1) *Wild river areas* -- Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

(2) *Scenic river areas* -- Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

(3) *Recreational river areas* -- Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

Congressionally designated components.

SECTION 3. (a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

(1) **CLEARWATER, MIDDLE FORK, IDAHO.** -- The Middle Fork from the town of Kooskia upstream to the town of Lowell; the Lochsa River from its junction with the Selway at Lowell forming the Middle Fork, upstream to the Powell Ranger Station; and the Selway River from Lowell upstream to its origin; to be administered by the Secretary of Agriculture.

(2) **ELEVEN POINT, MISSOURI.** -- The segment of the river extending downstream from Thomasville, to State Highway 142; to be administered by the Secretary of Agriculture.^{1a}

(3) **FEATHER, CALIFORNIA.** -- The entire Middle Fork downstream from the confluence of its tributary streams one kilometer south of Beckwourth, California; to be administered by the Secretary of Agriculture.

(4) **RIO GRANDE, NEW MEXICO.** -- The segment extending from the Colorado State line downstream to the State Highway 96 crossing, and the lower four miles of the Red River; to be administered by the Secretary of the Interior.

(5) **ROGUE, OREGON.** -- The segment of the river extending from the mouth of the Applegate River downstream to the Lobster Creek Bridge; to be administered by agencies of the Departments of the Interior or Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President.

(6) **SAINT CROIX, MINNESOTA AND WISCONSIN.** -- The segment between the dam near Taylors Falls, Minnesota, and the dam near Gordon, Wisconsin, and its tributary, the Namekagon, from Lake Namekagon downstream to its confluence with the Saint Croix, to be administered by the Secretary of the Interior; *Provided*, That except as may be required in connection with items (a) and (b) of this paragraph, no funds available to carry out the provisions of this Act may be expended for the acquisition or development of lands in connection with, or for administration under this Act of, that portion of the Saint Croix River between the dam near Taylors Falls, Minnesota, and the upstream end of Big Island in Wisconsin, until sixty days after the date on which the Secretary has transmitted to the President of the Senate and Speaker of the House of Representatives a proposed cooperative agreement between the Northern States Power Company and the United States (a) whereby the company agrees to convey to the United States, without charge, appropriate interests in certain of its lands between the dam near Taylors Falls, Minnesota, and the upstream end of Big Island in Wisconsin, including the company's right, title, and interest to approximately one hundred acres per mile, and (b) providing for the use and development of other lands and interests in land retained by the company between said points adjacent to the river in a manner which shall complement and not be inconsistent with the purposes for which the lands and interests

in land donated by the company are administered under this Act. Said agreement may also include provision for State or local governmental participation as authorized under subsection (e) of section 10 of this Act. A one-thousand-three-hundred-and-eighty-acre portion of the area commonly known as the Velie Estate, located adjacent to the Saint Croix River in Douglas County, Wisconsin, as depicted on the map entitled, "Boundary Map/Velie Estate--Saint Croix National Scenic Riverway," dated September 1980, and numbered 630-90,001, may be acquired by the Secretary without regard to any acreage limitation set forth in subsection (b) of this section or subsection (a) or (b) of section 6 of this Act.

(7) **SALMON, MIDDLE FORK, IDAHO.** -- From its origin to its confluence with the main Salmon River, to be administered by the Secretary of Agriculture.

(8) **WOLF, WISCONSIN.** -- From the Langlade-Menominee County line downstream to Keshena Falls, to be administered by the Secretary of the Interior.

(9) **LOWER SAINT CROIX, MINNESOTA AND WISCONSIN.** -- The segment between the dam near Taylors Falls and its confluence with the Mississippi River: *Provided*, (i) That the upper twenty-seven miles of this river segment shall be administered by the Secretary of the Interior; and (ii) That the lower twenty-five miles shall be designated by the Secretary upon his approval of an application for such designation made by the Governors of the States of Minnesota and Wisconsin.²

(10) **CHATTOOGA, NORTH CAROLINA, SOUTH CAROLINA, GEORGIA.** -- The segment from 0.8 mile below Cashiers Lake in North Carolina to Tugaloo Reservoir, and the West Fork Chattooga River from its junction with [the] Chattooga upstream 7.3 miles, as generally depicted on the boundary map entitled, "Proposed Wild and Scenic Chattooga River and Corridor Boundary," dated August 1973; to be administered by the Secretary of Agriculture: *Provided*, That the Secretary of Agriculture shall take such action as is provided for under subsection (b) of this section within one year from the date of enactment of this paragraph [May 10, 1974]; *Provided further*, That for the purposes of this river, there are authorized to be appropriated not more than \$5,200,000 for the acquisition of lands and interests in lands and not more than \$809,000 for development.

(11) **RAPID RIVER, IDAHO.**³ -- The segment from the headwaters of the main stem to the national forest boundary and the segment of the West Fork from the wilderness boundary downstream to the confluence with the main stem, as a wild river.

(12) **SNAKE, IDAHO AND OREGON.**³ -- The segment from Hells Canyon Dam downstream to Pittsburgh Landing, as a wild river; and the segment from Pittsburgh Landing downstream to an eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette meridian, as a scenic river.

(13) **FLATHEAD, MONTANA.** -- The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence to the South Fork; and the South Fork from its origin to the Hungry Horse Reservoir, as generally depicted on the map entitled, "Proposed Flathead Wild and Scenic River Boundary Location" dated February 1976; to be administered by agencies of the Departments of the Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) of this section shall be taken within one year from the date of enactment of this paragraph [October 12, 1976]. For the purposes of this river, there are authorized to be appropriated not more than \$6,719,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.

(14) **MISSOURI, MONTANA.**⁴ -- The segment from Fort Benton one hundred and forty-nine miles downstream to Robinson Bridge, as generally depicted on the boundary map entitled, "Missouri Breaks Free-flowing River Proposal," dated October 1975, to be administered by the Secretary of the Interior. For the purposes of this river, there are authorized to be appropriated not more than \$1,800,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.

(15) **OBED, TENNESSEE.** -- The segment from the western edge of the Catoosa Wildlife Management Area to the confluence with the Emory River; Clear Creek from the Morgan County line to the confluence with the Obed River; Daddys Creek from the Morgan County line to the confluence with the

Obed River; and the Emory River from the confluence with the Obed River to the Nemo Bridge as generally depicted and classified on the stream classification map dated December 1973. The Secretary of the Interior shall take such action, with the participation of the State of Tennessee as is provided for under subsection (b) within one year following the date of enactment of this paragraph [October 12, 1976]. The development plan required by such subsection (b) shall include cooperative agreements between the State of Tennessee acting through the Wildlife Resources Agency and the Secretary of the Interior. Lands within the Wild and Scenic River boundaries that are currently part of the Catoosa Wildlife Management Area shall continue to be owned and managed by the Tennessee Wildlife Resources Agency in such a way as to protect the wildlife resources and primitive character of the area, and without further development of roads, campsites, or associated recreational facilities unless deemed necessary by that agency for wildlife management practices. The Obed Wild and Scenic River shall be managed by the Secretary of the Interior. For the purposes of carrying out the provisions of this Act with respect to this river, there are authorized to be appropriated such sums as may be necessary, but not to exceed \$2,000,000 for the acquisition of lands or interests in lands and not to exceed \$400,000 for development. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.

(16) **PERE MARQUETTE, MICHIGAN.** -- The segment downstream from the junction of the Middle and Little South Branches to its junction with United States Highway 31 as generally depicted on the boundary map entitled, "Proposed Boundary Location, Pere Marquette Wild and Scenic River," to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segment referred to in this paragraph within one year from the date of enactment of this paragraph. Any development or management plan prepared pursuant to subsection (b) shall include (a) provisions for the dissemination of information to river users and (b) such regulations relating to the recreational and other uses of the river as may be necessary in order to protect the area comprising such river (including lands contiguous or adjacent thereto) from damage or destruction by reason of overuse and to protect its scenic, historic, esthetic and scientific values. Such regulations shall further contain procedures and means which shall be utilized in the enforcement of such development and management plan. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than \$8,125,000 for the acquisition of lands or interests in lands and \$402,000 for development. Notwithstanding any other provision of this Act, the installation and operation of facilities or other activities within or outside the boundaries of the Pere Marquette Wild and Scenic River for the control of the lamprey eel shall be permitted subject to such restrictions and conditions as the Secretary of Agriculture may prescribe for the protection of water quality and other values of the river, including the wild and scenic characteristics of the river.

(17) **RIO GRANDE, TEXAS.** -- The segment on the United States side of the river from river mile 842.3 above Mariscal Canyon downstream to river mile 651.1 at the Terrell-Val Verde County line; to be administered by the Secretary of the Interior. The Secretary shall, within two years after the date of enactment of this paragraph [November 10, 1978], take such action with respect to the segment referred to in this paragraph as is provided for under subsection (b). The action required by such subsection (b) shall be undertaken by the Secretary, after consultation with the United States Commissioner, International Boundary and Water Commission, United States and Mexico, and appropriate officials of the State of Texas and its political subdivisions. The development plan required by subsection (b) shall be construed to be a general management plan only for the United States side of the river and such plan shall include, but not be limited to, the establishment of a detailed boundary which shall include an average of not more than 160 acres per mile. Nothing in this Act shall be construed to be in conflict with

(A) the commitments or agreements of the United States made by or in pursuance of the treaty between the United States and Mexico regarding the utilization of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington, February 1944 (59 Stat. 1219), or

(B) the treaty between the United States and Mexico regarding maintenance of the Rio Grande and Colorado River as the international boundary between the United States and Mexico, signed November 23, 1970.

For purposes of carrying out the provisions of this Act with respect to the river designated by this

paragraph, there are authorized to be appropriated such sums as may be necessary, but not more than \$1,650,000 for the acquisition of lands and interests in lands and not more than \$1,800,000 for development.

(18) **SKAGIT, WASHINGTON.** -- The segment from the pipeline crossing at Sedro-Woolley upstream to and including the mouth of Bacon Creek; the Cascade River from its mouth to the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Suiattle River from its mouth to the boundary of the Glacier Peak Wilderness Area at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the boundary of the Glacier Peak Wilderness Area; as generally depicted on the boundary map entitled, "Skagit River -- River Area Boundary," all segments to be administered by the Secretary of Agriculture. Riprapping related to natural channels with natural rock along the shorelines of the Skagit segment to preserve and protect agricultural land shall not be considered inconsistent with the values for which such segment is designated. After consultation with affected Federal agencies, State and local government and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segments referred to in this paragraph within one year from the date of enactment of this paragraph [November 10, 1978]; as part of such action, the Secretary of Agriculture shall investigate that portion of the North Fork of the Cascade River from its confluence with the South Fork to the boundary of the North Cascades National Park and if such portion is found to qualify for inclusion, it shall be treated as a component of the Wild and Scenic Rivers System designated under this section upon publication by the secretary of notification to that effect in the Federal Register. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph there are authorized to be appropriated not more than \$11,734,000 for the acquisition of lands or interest in lands and not more than \$332,000 for development.

(19) **UPPER DELAWARE RIVER, NEW YORK AND PENNSYLVANIA.**⁵ -- The segment of the Upper Delaware River from the confluence of the East and West branches below Hancock, New York, to the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York, as depicted on the boundary map entitled, "The Upper Delaware Scenic and Recreational River," dated April 1978; to be administered by the Secretary of the Interior. Subsection (b) of this section shall not apply, and the boundaries and classifications of the river shall be as specified on the map referred to in the preceding sentence, except to the extent that such boundaries or classifications are modified pursuant to section 704(c)⁶ of the National Parks and Recreation Act of 1978. Such boundaries and classifications shall be published in the *Federal Register* and shall not become effective until ninety days after they have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph there are authorized to be appropriated such sums as may be necessary.

(20) **DELAWARE, NEW YORK, PENNSYLVANIA, AND NEW JERSEY.** -- The segment from the point where the river crosses the northern boundary of the Delaware Water Gap National Recreation Area to the point where the river crosses the southern boundary of such recreation area; to be administered by the Secretary of the Interior. For purposes of carrying out this Act with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary. Action required to be taken under subsection (b) of this section with respect to such segment shall be taken within one year from the date of enactment of this paragraph [November 10, 1978], except that, with respect to such segment, in lieu of the boundaries provided for in such subsection (b), the boundaries shall be the banks of the river. Any visitors facilities established for purposes of use and enjoyment of the river under the authority of the Act establishing the Delaware Water Gap National Recreation Area shall be compatible with the purposes of this Act and shall be located at an appropriate distance from the river.

(21) **AMERICAN, CALIFORNIA.** -- The North Fork from a point 0.3 mile above Heath Springs downstream to a point approximately 1,000 feet upstream of the Colfax-Iowa Hill Bridge, including the Gold Run Addition Area, as generally depicted on the map entitled, "Proposed Boundary Maps" contained in Appendix I of the document dated January 1978 and entitled, "A Proposal: North Fork American Wild and Scenic River" published by the United States Forest Service, Department of Agriculture; to be

designated as a wild river and to be administered by agencies of the Departments of Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) shall be taken within one year after the date of the enactment of this paragraph [November 10, 1978]; in applying such subsection (b) in the case of the Gold Run Addition Area, the acreage limitation specified therein shall not apply and in applying section 6(g)(3), January 1 of the calendar year [1977] preceding the calendar year in which this paragraph is enacted shall be substituted for January 1, 1967. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than \$850,000 for the acquisition of lands and interests in land and not more than \$765,000 for development.

(22) **MISSOURI RIVER, NEBRASKA, SOUTH DAKOTA.** -- The segment from Gavins Point Dam, South Dakota, fifty-nine miles downstream to Ponca State Park, Nebraska, as generally depicted in the document entitled, "Review Report for Water Resources Development, South Dakota, Nebraska, North Dakota, Montana," prepared by the Division Engineer, Missouri River Division, Corps of Engineers, dated August 1977 (hereinafter in this paragraph referred to as the "August 1977 Report"). Such segment shall be administered as a recreational river by the Secretary. The Secretary shall enter into a written cooperative agreement with the Secretary of the Army (acting through the Chief of Engineers) for construction and maintenance of bank stabilization work and appropriate recreational development. After public notice and consultation with the State and local governments, other interested organizations and associations, and the interested public, the Secretary shall take such action as is required pursuant to subsection (b) within one year from the date of enactment of this section [November 10, 1978]. In administering such river, the Secretary shall, to the extent, and in a manner, consistent with this section --

(A) provide (i) for the construction by the United States of such recreation river features and streambank stabilization structures as the Secretary of the Army (acting through the Chief of Engineers) deems necessary and advisable in connection with the segment designated by this paragraph, and (ii) for the operation and maintenance of all streambank stabilization structures constructed in connection with such segment (including both structures constructed before the date of enactment of this paragraph and structures constructed after such date, and including both structures constructed under the authority of this section and structures constructed under the authority of any other Act); and (B) permit access for such pumping and associated pipelines as may be necessary to assure an adequate supply of water for owners of land adjacent to such segment and for fish, wildlife, and recreational uses outside the river corridor established pursuant to this paragraph. The streambank structures to be constructed and maintained under subparagraph (A) shall include, but not be limited to, structures at such sites as are specified with respect to such segment on pages 62 and 63 of the August 1977 Report, except that sites for such structures may be relocated to the extent deemed necessary by the Secretary of the Army (acting through the Chief of Engineers) by reason of physical changes in the river or river area. The Secretary of the Army (acting through the Chief of Engineers) shall condition the construction or maintenance of any streambank stabilization structure or of any recreational river feature at any site under subparagraph (A)(i) upon the availability to the United States of such land and interests in land in such ownership as he deems necessary to carry out such construction or maintenance and to protect and enhance the river in accordance with the purposes of this Act. Administration of the river segment designated by this paragraph shall be in coordination with, and pursuant to the advice of a Recreational River Advisory Group which shall be established by the Secretary. Such Group may include in its membership, representatives of the affected States and political subdivisions thereof, affected Federal agencies, and such organized private groups as the Secretary deems desirable. Notwithstanding the authority to the contrary contained in subsection 6(a) of this Act, no land or interests in land may be acquired without the consent of the owner. *Provided*, That not to exceed 5 per centum of the acreage within the designated river boundaries may be acquired in less than fee title without the consent of the owner, in such instance of the Secretary's determination that activities are occurring, or threatening to occur thereon which constitute serious damage or threat to the integrity of the river corridor, in accordance with the values for which this river was designated. For purposes of carrying out the provisions of the Act with respect to the river designated by this paragraph, there are authorized to be appropriated not to exceed \$21,000,000, for acquisition of lands and interests in lands and for development.

(23) **SAINT JOE, IDAHO.** -- The segment above the confluence of the North Fork of the Saint Joe River to Spruce Tree Campground, as a recreational river; the segment above Spruce Tree Campground to Saint Joe Lake, as a wild river, as generally depicted on the map entitled, "Saint Joe River Corridor Map" on file with the Chief of the Forest Service and dated September 1978; to be administered by the Secretary of Agriculture. Notwithstanding any other provision of law, the classification of the Saint Joe River under this paragraph and the subsequent development plan for the river prepared by the Secretary of Agriculture shall at no time interfere with or restrict the maintenance, use, or access to existing or future roads within the adjacent lands nor interfere with or restrict present use of or future construction of bridges across that portion of the Saint Joe designated as a "recreational river" under this paragraph. Dredge or placer mining shall be prohibited within the banks or beds of the main stem of the Saint Joe and its tributary streams in their entirety above the confluence of the main stem with the North Fork of the river. Nothing in this Act shall be deemed to prohibit the removal of sand and gravel above high water mark of the Saint Joe River and its tributaries within the river corridor by or under the authority of any public body or its agents for the purposes of construction or maintenance of roads. The Secretary shall take such action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph [November 10, 1978]. For the purposes of this river, there are authorized to be appropriated not more than \$1,000,000 for the acquisition of lands or interest in lands.

(24) **SALMON, IDAHO.** --

(A) The segment of the main river from the mouth of the North Fork of the Salmon River downstream to Long Tom Bar in the following classes: (i) the forty-six-mile segment from the mouth of the North Fork of the Salmon River to Corn Creek as a recreational river; and (ii) the seventy-nine mile segment from Corn Creek to Long Tom Bar as a wild river; all as generally depicted on a map entitled, "Salmon River" dated November 1979, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture.

(B) This segment shall be administered by the Secretary of Agriculture: *Provided*, That after consultation with State and local governments and the interested public, the Secretary shall take such action as is required by subsection (b) of this section within one year from the date of enactment of this paragraph [June 23, 1980].

(C) The use of motorboats (including motorized jetboats) within this segment of the Salmon River shall be permitted to continue at a level not less than the level of use which occurred during calendar year 1978.

(D) Subject to existing rights of the State of Idaho, including the right of access, with respect to the beds of navigable streams, tributaries or rivers, dredge and placer mining in any form including any use of machinery for the removal of sand and gravel for mining purposes shall be prohibited within the segment of the Salmon River designated as a component of the Wild and Scenic Rivers System by this paragraph; within the fifty-three mile segment of the Salmon River from Hammer Creek downstream to the confluence of the Snake River; and within the Middle Fork of the Salmon River, and its tributary streams in their entirety: *Provided*, That nothing in this paragraph shall be deemed to prohibit the removal of sand and gravel, outside the boundaries of the River of No Return Wilderness or the Gospel-Hump Wilderness, above the high water mark of the Salmon River or the Middle Fork and its tributaries for the purposes of construction or maintenance of public roads: *Provided further*, That this paragraph shall not apply to any written mineral leases approved by the Board of Land Commissioners of the State of Idaho prior to January 1, 1980.

(E) The provisions of section 7(a) of this Act with respect to the licensing of dams, water conduits, reservoirs, powerhouses, transmission lines or other project works, shall apply to the fifty-three-mile segment of the Salmon River from Hammer Creek downstream to the confluence of the Snake River.

(F) For the purposes of the segment of the Salmon River designated as a component of the Wild and Scenic Rivers System by this paragraph, there is hereby authorized to be appropriated from the Land and Water Conservation Fund, after October 1, 1980, not more than \$6,200,000 for the acquisition of lands and interests in lands.⁷

(25) **ALAGNAK, ALASKA.**⁸ -- That segment of the main stem and the major tributary to the Alagnak, the Nonvianuk River, within Katmai National Preserve; to be administered by the Secretary of the

Interior.

(26) **ALATNA, ALASKA.** -- The main stem within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

(27) **ANIACHAK, ALASKA.** -- That portion of the river, including its major tributaries, Hidden Creek, Mystery Creek, Albert Johnson Creek, and North Fork Aniakchak River, within the Aniakchak National Monument and National Preserve; to be administered by the Secretary of the Interior.

(28) **CHARLEY, ALASKA.** -- The entire river, including its major tributaries, Copper Creek, Bonanza Creek, Hosford Creek, Derwent Creek, Flat-Orthmer Creek, Crescent Creek, and Moraine Creek, within the Yukon-Charley Rivers National Preserve; to be administered by the Secretary of the Interior.

(29) **CHILIKADRODNA, ALASKA.** -- That portion of the river within the Lake Clark National Park and Preserve; to be administered by the Secretary of the Interior.

(30) **JOHN, ALASKA.** -- That portion of the river within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

(31) **KOBUK, ALASKA.** -- That portion within the Gates of the Arctic National Park and Preserve; to be administered by the Secretary of the Interior.

(32) **MULCHATNA, ALASKA.** -- That portion within the Lake Clark National Park and Preserve; to be administered by the Secretary of the Interior.

(33) **NOATAK, ALASKA.** -- The river from its source in the Gates of the Arctic National Park to its confluence with the Kelly River in the Noatak National Preserve; to be administered by the Secretary of the Interior.

(34) **NORTH FORK OF THE KOYUKUK, ALASKA.** -- That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

(35) **SALMON, ALASKA.** -- That portion within the Kobuk Valley National Park; to be administered by the Secretary of the Interior.

(36) **TINAYGUK, ALASKA.** -- That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

(37) **TLIKAKILA, ALASKA.** -- That portion within the Lake Clark National Park; to be administered by the Secretary of the Interior.

(38) **ANDREAFSKY, ALASKA.** -- That portion from its source, including all headwaters, and the East Fork, within the boundary of the Yukon Delta National Wildlife Refuge; to be administered by the Secretary of the Interior.

(39) **IVISHAK, ALASKA.** -- That portion from its source, including all headwaters and an unnamed tributary from Porcupine Lake within the boundary of the Arctic National Wildlife Range; to be administered by the Secretary of the Interior.

(40) **NOWITNA, ALASKA.** -- That portion from the point where the river crosses the west limit of township 18 south, range 22 east, Kateel River meridian, to its confluence with the Yukon River within the boundaries of the Nowitna National Wildlife Refuge; to be administered by the Secretary of the Interior.

(41) **SELAWIK, ALASKA.** -- That portion from a fork of the headwaters in township 12 north, range 10 east, Kateel River meridian to the confluence of the Kugarak River, within the Selawik National Wildlife Refuge; to be administered by the Secretary of the Interior.

(42) **SHEENJEK, ALASKA.** -- The segment within the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.

(43) **WIND, ALASKA.** -- That portion from its source, including all headwaters and one unnamed tributary in township 13 south, within the boundaries of the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.

(44) **ALAGNAK, ALASKA.** -- Those segments or portions of the main stem and Nonwianuk tributary lying outside and westward of the Katmai National Park/Preserve and running to the west boundary of township 13 south, range 43 west; to be administered by the Secretary of the Interior.

(45) **BEAVER CREEK, ALASKA.** -- The segment of the main stem from the vicinity of the confluence of the Bear and Champion Creeks downstream to its exit from the northeast corner of township 12 north, range 6 east, Fairbanks meridian within the White Mountains National Recreation Area, and the

Yukon Flats National Wildlife Refuge, to be administered by the Secretary of the Interior.

(46) **BIRCH CREEK, ALASKA.** -- The segment of the main stem from the south side of Steese Highway in township 7 north, range 10 east, Fairbanks meridian, downstream to the south side of the Steese Highway in township 10 north, range 16 east, to be administered by the Secretary of the Interior.

(47) **DELTA, ALASKA.** -- The segment from and including all of the Tangle Lakes to a point one-half mile north of Black Rapids; to be administered by the Secretary of the Interior.

(48) **FORTY MILE, ALASKA.** -- The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek, Franklin Creek, Uhler Creek, Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchison Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; to be administered by the Secretary of the Interior.

(49) **GULKANA, ALASKA.** -- The main stem from the outlet of Paxson Lake in township 12 north, range 2 west, Copper River meridian to the confluence with Sourdough Creek; the south branch of the west fork from the outlet of an unnamed lake in sections 10 and 15, township 10 north, range 7 west, Copper River meridian to the confluence with the west fork; the north branch from the outlet of two unnamed lakes, one in sections 24 and 25, the second in sections 9 and 10, township 11 north, range 8 west, Copper River meridian to the confluence with the west fork; the west fork from its confluence with the north and south branches downstream to its confluence with the main stem; the middle fork from the outlet of Dickey Lake in township 13 north, range 5 west, Copper River meridian to the confluence with the main stem; to be classified as a wild river area and to be administered by the Secretary of the Interior.

(50) **UNALAKLEET, ALASKA.** -- The segment of the main stem from the headwaters in township 12 south, range 3 west, Kateel River meridian extending downstream approximately 65 miles to the western boundary of township 18 south, range 8 west; to be administered by the Secretary of the Interior.

(51) **VERDE, ARIZONA.** -- The segment from the boundary between national forest and private land in sections 26 and 27, township 13 north, range 5 east, Gila Salt River meridian, downstream to the confluence with Red Creek, as generally depicted on a map entitled, "Verde River -- Wild and Scenic River," dated March 1984, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture. This designation shall not prevent water users receiving Central Arizona Project water allocations from diverting that water through an exchange agreement with downstream water users in accordance with Arizona water law. After consultation with State and local governments and the interested public and within two years after the date of enactment of this paragraph [August 28, 1984], the Secretary shall take such action as is required under subsection (b) of this section.

(52) **AU SABLE, MICHIGAN.** -- The segment of the main stem from the project boundary of the Mio Pond project downstream to the project boundary at Alcona Pond project as generally depicted on a map entitled, "Au Sable River" which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture.

(53) **TUOLUMNE, CALIFORNIA.** -- The main river from its sources on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir consisting of approximately 83 miles as generally depicted on the proposed boundary map entitled, "Alternative A," contained in the Draft Tuolumne Wild and Scenic River Study and Environmental Impact Statement published by the United States Department of the Interior and Department of Agriculture in May 1979; to be administered by the Secretary of the Interior and the Secretary of Agriculture. After consultation with State and local governments and the interested public and within two years from the date of enactment of this paragraph [September 28, 1984], the Secretary shall take such action as is required under subsection (b) of this section. Nothing in this Act shall preclude the licensing, development, operation, or maintenance of water resources facilities on those portions of the North Fork, Middle Fork or South Fork of the Tuolumne or Clavey Rivers that are outside the boundary of the wild and scenic river area as designated in this section. Nothing in this section is intended or shall be construed to affect any rights, obligations, privileges, or benefits granted under any prior authority of law including chapter 4 of the Act of December 13, 1913, commonly referred to as the Raker Act (38 Stat.

242) and including any agreement or administrative ruling entered into or made effective before the enactment of this paragraph [September 28, 1984]. For fiscal years commencing after September 30, 1985, there are authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection.

(54) **ILLINOIS, OREGON.** -- The segment from the boundary of the Siskiyou National Forest downstream to its confluence with the Rogue River as generally depicted on a map entitled "Illinois River Study" and is also part of a report entitled "A Proposal: Illinois Wild and Scenic River;" to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph [October 19, 1984]. For the purposes of this Act with respect to the river designated by this paragraph, effective October 1, 1984, there are authorized to be appropriated such sums as necessary for the acquisition of lands or interests in lands, and such sums as necessary for development.

(55) **OWYHEE, OREGON.** -- The South Fork from the Idaho-Oregon State line downstream to Three Forks; the Owyhee River from Three Forks downstream to China Gulch; and the Owyhee River downstream from Crooked Creek to the Owyhee Reservoir as generally depicted on a map entitled "Owyhee, Oregon" dated April 1984; all three segments to be administered as a wild river by the Secretary of the Interior. After consultation with State and local governments and the interested public, the Secretary shall take such appropriate action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph [October 19, 1984]. For the purposes of this Act with respect to the river designated by this paragraph, effective October 1, 1984, there are authorized to be appropriated such sums as necessary for the acquisition of lands or interests and such sums as necessary for development.

(56) **HORSE PASTURE, NORTH CAROLINA.** -- The segment from Bohaynee Road (N.C. 281) downstream approximately 4.25 miles to where the segment ends at Lake Jocassee, to be administered by the Secretary of Agriculture. Notwithstanding any limitation of section 6 of this Act, the Secretary is authorized to utilize the authority of this Act and those pertaining to the National Forests to acquire by purchase with donated or appropriated funds, donation, or exchange or otherwise, such non-Federal lands or interests in lands within, near, or adjacent to the designated segments of the river which the Secretary determines will protect or enhance the scenic and natural values of the river.

(57) **CACHE LA POUDE, COLORADO.**⁹ -- The following segments as generally depicted on the proposed boundary map numbered FS-56 and dated March 1986, published by the United States Department of Agriculture, each to be administered by the Secretary of Agriculture; except that those portions of the segments so designated which are within the boundary of Rocky Mountain National Park shall continue to be administered by the Secretary of the Interior:

(A) Beginning at Poudre Lake downstream to the confluence of Joe Wright Creek, as a wild river. This segment to be designated the "Peter H. Dominick Wild River Area."

(B) Downstream from the confluence of Joe Wright Creek to a point where the river intersects the easterly north-south line of the west half southwest quarter of section 1, township 8 north, range 71 west of the sixth principal meridian, as a recreational river.

(C) South Fork of the Cache la Poudre River from its source to the Comanche Peak Wilderness Boundary, approximately four miles, as a wild river.

(D) Beginning at the Comanche Peak Wilderness Boundary to a point on the South Fork of the Cache la Poudre River in section 1, township 7 north, range 73 west of the sixth principal meridian, at elevation 8050 mean sea level, as a recreational river.

(E) South Fork of the Cache la Poudre River from its intersection with the easterly section line of section 30, township 8 north, range 72 west of the sixth principal meridian, to confluence of the main stem of the Cache la Poudre River, as a wild river.

With respect to the portions of the river segments designated by this paragraph which are within the boundaries of Rocky Mountain National Park, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the *Federal Register*. Such revisions to the general management plan for the park shall assure that no

development or use of parklands shall be undertaken that is inconsistent with the designation of such river segments as a wild river. For the purposes of the segments designated by this paragraph, there are authorized to be appropriated \$500,000 for development and \$2,500,000 for land acquisition.

(58) **SALINE BAYOU, LOUISIANA.**¹⁰ -- The segment from Saline Lake upstream to the Kisatchie National Forest, as generally depicted on the Proposed Boundary Map, numbered FS-57, and dated March 1986; to be administered by the Secretary of Agriculture. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, not to exceed \$1,000,000 for the acquisition of lands and interests in lands and for development."

(59) **BLACK CREEK, MISSISSIPPI.**¹¹ -- The segment from Fairley Bridge Landing upstream to Moody's Landing as generally depicted on a map entitled "Black Creek Wild and Scenic River," numbered FS-58 and dated March 1986, to be administered by the Secretary of Agriculture as a scenic river area under section 2(b)(2). For the purposes of the segment designated by this paragraph, there are authorized to be appropriated up to \$300,000 for the acquisition of lands and interests in lands and for development.

(60) **KLICKITAT, WASHINGTON.** -- The segment from its confluence with Wheeler Creek, Washington, near the town of Pitt, Washington, to its confluence with the Columbia River; to be classified as a recreation river and to be administered by the Secretary of Agriculture.

(61) **WHITE SALMON, WASHINGTON.** -- The segment from its confluence with Gilmer Creek, Washington, near the town of B Z Corner, Washington to its confluence with Buck Creek, Washington; to be classified as a scenic river and to be administered by the Secretary of Agriculture.¹²

(62) **MERCED, CALIFORNIA.** --

(A) The main stem from its sources (including Red Peak Fork, Merced Peak Fork, Triple Peak Fork, and Lyle Fork) on the south side Mount Lyell in Yosemite National Park to a point 300 feet upstream of the confluence with Bear Creek, consisting of approximately 71 miles, and the South Fork of the river from its source near Triple Divide Peak in Yosemite National Park to the confluence with the main stem, consisting of approximately 43 miles, both as generally depicted on the map entitled "Merced River Wild and Scenic Rivers -- Proposed," dated June 1987, to be administered by the Secretary of Agriculture and the Secretary of the Interior. With respect to the portions of the river designated by this subparagraph which are within the boundaries of Yosemite National Park, and the El Portal Administrative unit, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the *Federal Register*. Such revisions to the general management plan for the park shall assure that no development or use of park lands shall be undertaken that is inconsistent with the designation of such river segments. There are authorized to be appropriated such sums as may be appropriated to the Secretary of Agriculture for the acquisition of lands and interests in lands and for development.

(B)(i) The main stem from a point 300 feet upstream of the confluence with Bear Creek downstream to the normal maximum operating pool water surface level of Lake McClure (elevation 867 feet mean sea level) consisting of approximately 8 miles, as generally depicted on the map entitled "Merced Wild and Scenic River," dated April, 1990. The Secretary of the Interior shall administer the segment as recreational, from a point 300 feet upstream of the confluence with Bear Creek downstream to a point 300 feet west of the boundary of the Mountain King Mine, and as wild, from a point 300 feet west of the boundary of the Mountain King Mine to the normal maximum operating pool water surface level of Lake McClure. The requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the Sierra Management Framework Plan for the Sierra Planning Area of the Folsom Resource Area, Bakersfield District, Bureau of Land Management. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subparagraph. (ii) To the extent permitted by, and in a manner consistent with section 7 of this Act (16 U.S.C. 1278), and in accordance with other applicable law, the Secretary of the Interior shall permit the construction and operation of such pumping facilities and associated pipelines as identified in the Bureau of Land Management right-of-way application CACA 26084, filed by the Mariposa County Water Agency on November 7, 1989, and known as the "Saxon Creek Project," to assure an adequate supply of water from the Merced River to Mariposa County.

(C) With respect to the segments of the main stem of the Merced River and the South Fork Merced River designated as recreational or scenic pursuant to this paragraph or by the appropriate agency pursuant to subsection (b), the minerals to Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.¹³

(63) **KINGS, CALIFORNIA.** -- The Middle Fork of the Kings River from its headwaters at Lake Helen between Muir Pass and Black Giant Mountain to its confluence with the main stem; the South Fork, Kings River from its headwaters at Lake 11599 to its confluence with the main stem; and the main stem of the Kings River from the confluence of the Middle Fork and the South Fork to the point at elevation 1,595 feet above mean sea level. The segments within the Kings Canyon National Park shall be administered by the Secretary of the Interior. The remaining segments shall be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public and within one year after the enactment of this paragraph [November 3, 1987], the respective Secretaries shall take such action as is required under subsection (b) of this section. In the case of the segments of the river administered by the Secretary of the Interior, the requirements of subsection (b) shall be fulfilled through appropriate revisions to the general management plan for Kings Canyon National Park, and the boundaries, classification, and development plans for such segments need not be published in the *Federal Register*. Such revisions to the general management plan for the park shall assure that no development or use of park lands shall be undertaken that is inconsistent with the designation of the river under this paragraph. For the purposes of the segments designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not to exceed \$250,000, to the Secretary of Agriculture for development and land acquisition to carry out the purposes of this paragraph.

(64) **NORTH FORK KERN RIVER, CALIFORNIA.** --

(A) The segment of the main stem from the Tulare-Kern County line to its headwaters in Sequoia National Park, as generally depicted on a map entitled "Kern River Wild and Scenic River -- Proposed" and dated June, 1987; to be administered by the Secretary of Agriculture; except that portion of the river within the boundaries of the Sequoia National Park shall be administered by the Secretary of the Interior. With respect to the portion of the river segment designated by this paragraph which is within the boundaries of Sequoia National Park, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portion need not be published in the *Federal Register*. Such revision to the general management plan for the park shall assure that no developments or use of park lands shall be undertaken that is inconsistent with the designation of such river segment.

(B) **SOUTH FORK KERN RIVER, CALIFORNIA.** -- The segment from its headwaters in the Inyo National Forest to the southern boundary of the Domelands Wilderness in the Sequoia National Forest, as generally depicted on a map entitled "Kern River Wild and Scenic River -- Proposed" and dated June 1987; to be administered by the Secretary of Agriculture.

(C) Nothing in this Act shall affect the continued operation and maintenance of the existing diversion project, owned by Southern California Edison on the North Fork of the Kern River, including reconstruction or replacement of facilities to the same extent as existed on the date of enactment of this paragraph [November 24, 1987].

(D) For the purposes of the segments designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not to exceed \$100,000, to the Secretary of Agriculture for development and land acquisition.

(65) **BLUESTONE, WEST VIRGINIA.** -- The segment in Mercer and Summers Counties, West Virginia, from a point approximately two miles upstream of the Summers and Mercer County line down to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake as depicted on the boundary map entitled "Bluestone Wild and Scenic River," numbered WSR-BLU/20,000, and dated January 1987; to be administered by the Secretary of the Interior as a scenic river. In carrying out the requirements of subsection (b) of this section, the Secretary shall consult with State and local governments and the interested public. The Secretary shall not be required to establish detailed

boundaries of the river as provided under subsection (b) of this section. Nothing in this Act shall preclude the improvement of any existing road or right-of-way within the boundaries of the segment designated under this paragraph. Jurisdiction over all lands and improvements on such lands owned by the United States within the boundaries of the segment designated under this paragraph is hereby transferred without reimbursement to the administrative jurisdiction of the Secretary of the Interior, subject to leases in effect on the date of enactment of this paragraph [October 26, 1988] (or renewed thereafter) between the United States and the State of West Virginia with respect to the Bluestone State Park and the Bluestone Public Hunting and Fishing Area. Nothing in this Act shall affect the management by the State of hunting and fishing within the segment designated under this paragraph. Nothing in this Act shall affect or impair the management by the State of West Virginia of other wildlife activities in the Bluestone Public Hunting and Fishing Area to the extent permitted in the lease agreement as in effect on the enactment of this paragraph [October 26, 1988], and such management may be continued pursuant to renewal of such lease agreement. If requested to do so by the State of West Virginia, the Secretary may terminate such leases and assume administrative authority over the areas concerned. Nothing in the designation of the segment referred to in this paragraph shall affect or impair the management of the Bluestone project or the authority of any department, agency, or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph [October 26, 1988]. Nothing in this Act shall be construed to affect the continuation of studies relating to such projects which were commenced before the enactment of this paragraph.

(66) SIPSEY FORK OF THE WEST FORK, ALABAMA. --

(A) Segments of the Sipsey Fork and several tributaries; to be administered by the Secretary of Agriculture in the classifications indicated, as follows: (1) Sipsey Fork from the confluence of Sandy Creek upstream to Forest Highway 26, as a scenic river; and (2) Sipsey Fork from Forest Highway 26 upstream to its origin at the confluence of Thompson Creek and Hubbard Creek, as a wild river; and (3) Hubbard Creek from its confluence with Thompson Creek upstream to Forest Road 210, as a wild river; and (4) Thompson Creek from its confluence with Hubbard Creek upstream to its origin in section 4, township 8 south, range 9 west, as a wild river; and (5) Tedford Creek from its confluence with Thompson Creek upstream to section 17, township 8 south, range 9 west, as a wild river; and (6) Mattox Creek from its confluence with Thompson Creek upstream to section 36 of township 7 south, range 9 west, as a wild river; and (7) Borden Creek from its confluence with the Sipsey Fork upstream to Forest Road 208, as a wild river; and (8) Borden Creek from Forest Road 208 upstream to its confluence with Montgomery Creek, as a scenic river; and (9) Montgomery Creek from its confluence with Borden Creek upstream to the southwest quarter of the southwest quarter of section 36, township 7 south, range 8 west, as a scenic river; and (10) Flannigan Creek from its confluence with Borden Creek upstream to Forest Road 208, as a wild river; and (11) Flannigan Creek from Forest Road 208 upstream to section 4, township 8 south, range 8 west, as a scenic river; and (12) Braziel Creek from its confluence with Borden Creek upstream to section 12, township 8 south, range 9 west, as a wild river, and (13) Hogood Creek from its confluence with Braziel Creek upstream to the confluence with an unnamed tributary in section 7, township 8 south, range 8 west, as a wild river.

(B) A map entitled "Sipsey Fork of the West Fork Wild and Scenic River" generally depicting the Sipsey Fork and the tributaries, shall be on file and remain available for public inspections in the office of the Chief of the Forest Service, Department of Agriculture.

(67) WILDCAT RIVER, NEW HAMPSHIRE. --

(A) A 14.51 mile segment including the following tributaries: Wildcat Brook, Bog Brook, and Great Brook (all as generally depicted on a map entitled "Wildcat River," dated October 1987) to be administered as follows: those segments of the Wildcat River and its tributaries located within the boundary of the White Mountain National Forest (hereinafter in this paragraph referred to as "the forest") shall be administered by the Secretary of Agriculture (hereinafter in this paragraph referred to as the "Secretary"); those segments located outside the boundary of the forest shall be administered by the Secretary through a cooperative agreement with the Board of Selectmen of the town of Jackson and the State of New Hampshire pursuant to section 10(e) of this Act. Such agreement shall provide for the long-term protection, preservation, and enhancement of the river segments located outside the boundary of the forest and shall be consistent with the

comprehensive management plan to be prepared by the Secretary pursuant to section 3(d) of this Act and with the July 1987 River Conservation Plan prepared by the Wildcat Brook Advisory Committee in conjunction with the National Park Service.

(B)(i) To assist in the implementation of this paragraph, the Secretary shall establish, within 3 months after the date of enactment of this subparagraph [October 28, 1988], a Wildcat River Advisory Commission (hereinafter in this paragraph referred to as the "Commission"). (ii) The Commission shall be composed of 7 members appointed by the Secretary as follows: one member from recommendations submitted by the Governor of the State of New Hampshire; 4 members from recommendations submitted by the Jackson Board of Selectmen, of which at least 2 members shall be riparian property owners, and at least one member shall be on the Board of Selectmen; one member from recommendations submitted by the Jackson Conservation Commission; and one member selected by the Secretary. Members of the Commission shall be appointed for terms of 3 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Commission shall designate one of its members as Chairman. (iii) The Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the designation of the segments described in this paragraph. Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement. (iv) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this paragraph on vouchers signed by the Chairman. (v) Four members of the Commission shall constitute a quorum but a lesser number may hold hearings. (vi) The Commission shall cease to exist on the date 10 years after the enactment of this paragraph [October 28, 1988]. (vii) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to the Commission.

(C) The authority of the Secretary to acquire lands outside the boundary of the White Mountain National Forest for purposes of this paragraph shall be limited to acquisition by donation or acquisition with the consent of the owner thereof. The Secretary may also acquire scenic easements for purposes of this paragraph as provided in section 6 of this Act.

(D) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this paragraph.

(68) **BIG MARSH CREEK, OREGON.**¹⁴ -- The 15-mile segment from the northeast quarter of section 15, township 26 south, range 6 east, to its confluence with Crescent Creek in the northeast quarter of section 20, township 24 south, range 7 east, as a recreational river; to be administered by the Secretary of Agriculture: *Provided*, That nothing in this Act shall prohibit the Secretary from undertaking construction activities to enhance and restore wetland resources associated with Big Marsh Creek.

(69) **CHETCO, OREGON.** -- The 44.5-mile segment from its headwaters to the Siskiyou National Forest boundary, to be administered by the Secretary of Agriculture in the following classes: (A) The 25.5-mile segment from its headwaters to Boulder Creek at the Kalmiopsis Wilderness boundary as a wild river; (B) the 8-mile segment from Boulder Creek to Steel Bridge as a scenic river; and (C) the 11-mile segment from Steel Bridge to the Siskiyou National Forest boundary, one mile below Wilson Creek, as a recreational river.

(70) **CLACKAMAS, OREGON.** -- The 47-mile segment from Big Springs to Big Cliff, to be administered by the Secretary of Agriculture in the following classes: (A) The 4-mile segment from Big Springs to the Forest Service Road 4690 bridge as a scenic river; (B) the 3.5-mile segment from the Forest Service Road 4690 bridge to the junction with Oregon State Highway 224 as a recreational river; (C) the 10.5-mile segment from Oregon State Highway 224 to the June Creek Bridge as a scenic river; (D) the 9-mile segment from June Creek Bridge to Tar Creek as a recreational river; (E) the 5.5-mile segment from Tar Creek to just south of Indian Henry Campground as a scenic river; and (F) the 14.5-mile segment just south of Indian Henry Campground to Big Cliff as a recreational river.

(71) **CRESCENT CREEK, OREGON.** -- The 10-mile segment from the southwest quarter of section 11, township 24 south, range 6 east, to the west section line of section 13, township 24 south, range 7 east, as a recreational river, to be administered by the Secretary of Agriculture.

(72) **CROOKED, OREGON.** -- The 15-mile segment from the National Grassland boundary to Dry Creek; to be administered by the Secretary of the Interior in the following classes: (A) The 7-mile segment from the National Grassland boundary to River Mile 8 south of Opal Spring as a recreational river; and (B) the 8-mile segment from Bowman Dam to Dry Creek as a recreational river.

(73) **DESCHUTES, OREGON.** -- Those portions as follows: (A) The 40.4-mile segment from Wickiup Dam to northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east as a recreational river; to be administered by the Secretary of Agriculture; (B) the 11-mile segment from the northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east, to Lava Island Camp as a scenic river, to be administered by the Secretary of Agriculture; (C) the 3-mile segment from Lava Island Camp to the Bend Urban Growth Boundary at the southwest corner of section 13, township 18 south, range 11 east, as a recreational river; to be administered by the Secretary of Agriculture; (D) the 19-mile segment from Oden Falls to the Upper End of Lake Billy Chinook as a scenic river; to be administered by the Secretary of the Interior; (E) the 100-mile segment from the Pelton Reregulating Dam to its confluence with the Columbia River as a recreational river; to be administered by the Secretary of the Interior through a cooperative management agreement between the Confederated Tribes of the Warm Springs Reservation, and the State of Oregon as provided in section 10(e) of this Act and section 105 of the Omnibus Oregon Wild and Scenic Rivers Act of 1988.

(74) **DONNER UND BLITZEN, OREGON.** -- Those segments, including its major tributaries, as a wild river; to be administered by the Secretary of the Interior as follows: (A) The 16.75-mile segment of the Donner und Blitzen from its confluence with the South Fork Blitzen and Little Blitzen; (B) the 12.5-mile segment of the Little Blitzen from its headwaters to its confluence with the South Fork Blitzen; (C) the 16.5-mile segment of the South Fork Blitzen from its headwaters to its confluence with the South Fork Blitzen; (D) the 10-mile segment of Big Indian Creek from its headwaters to its confluence with the South Fork Blitzen; (E) the 3.7-mile segment of Little Indian Creek from its headwaters to its confluence with Big Indian Creek; and (F) the 13.25-mile segment of Fish Creek from its headwaters to its confluence with the Donner und Blitzen.

(75) **EAGLE CREEK, OREGON.** -- The 27-mile segment from its headwaters below Eagle Lake to the Wallowa-Whitman National Forest boundary at Skull Creek; to be administered by the Secretary of Agriculture in the following classes: (A) The 4-mile segment from its headwaters below Eagle Lake to the Eagle Cap Wilderness boundary at Hummingbird Mountain as a wild river; (B) the 15.5-mile segment from the Eagle Cap Wilderness boundary at Hummingbird Mountain to Paddy Creek as a recreational river; (C) the 6-mile segment from Paddy Creek to Little Eagle Creek as a scenic river; and (D) the 1.5-mile segment from Little Eagle Creek to the Wallowa-Whitman National Forest boundary as a recreational river.

(76) **ELK, OREGON.** -- The 19-mile segment to be administered by the Secretary of Agriculture in the following classes: (A) The 17-mile segment from the confluence of the North and South Forks of the Elk to Anvil Creek as a recreational river, and (B) the 2-mile segment of the North Fork Elk from the falls to its confluence with the South Fork as a wild river.

(77) **GRANDE RONDE, OREGON.** -- The 43.8-mile segment from its confluence with the Wallowa River to the Oregon-Washington State line in the following classes: (A) The 1.5-mile segment from its confluence with the Wallowa River to the Umatilla National Forest boundary in section 11, township 3 north, range 40 east, as a recreational river; to be administered by the Secretary of Agriculture; (B) the 17.4-mile segment from the Umatilla National Forest boundary in section 11, township 3 north, range 40 east, to the Wallowa-Whitman National Forest boundary approximately one-half mile east of Grossman Creek as a wild river; to be administered by the Secretary of Agriculture; (C) the 9-mile segment from the Wallowa-Whitman National Forest boundary approximately one-half mile east of Grossman Creek to Wildcat Creek as a wild river; to be administered by the Secretary of the Interior; and (D) the 15.9-mile segment from Wildcat Creek to the Oregon-Washington State line as a recreational river; to be administered by the Secretary of the Interior.

(78) **IMNAHA, OREGON.** -- Those segments, including the South Fork Imnaha; to be

administered by the Secretary of Agriculture in the following classes: (A) The 6-mile segment from its confluence with the North and South Forks of the Imnaha River to Indian Crossing as a wild river; (B) the 58-mile segment from Indian Crossing to Cow Creek as a recreational river; (C) the 4-mile segment from Cow Creek to its mouth as a scenic river; and (D) the 9-mile segment of the South Fork Imnaha from its headwaters to its confluence with the Imnaha River as a wild river.

(79) **JOHN DAY, OREGON.** -- The 147.5-mile segment from Service Creek to Tumwater Falls as a recreational river; to be administered through a cooperative management agreement between the State of Oregon and the Secretary of the Interior as provided in section 10(e) of this Act.

(80) **JOSEPH CREEK, OREGON.** -- The 8.6-mile segment from Joseph Creek Ranch, one mile downstream from Cougar Creek, to the Wallowa-Whitman National Forest boundary as a wild river; to be administered by the Secretary of Agriculture.

(81) **LITTLE DESCHUTES, OREGON.** -- The 12-mile segment from its source in the northwest quarter of section 15, township 26 south, range 6 1/2 east to the north section line of section 12, township 26 south, range 7 east, as a recreational river; to be administered by the Secretary of Agriculture.

(82) **LOSTINE, OREGON.** -- The 16-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary, to be administered by the Secretary of Agriculture in the following classes: (A) The 5-mile segment from its headwaters to the Eagle Cap Wilderness boundary as a wild river; and (B) the 11-mile segment from the Eagle Cap Wilderness boundary to the Wallowa-Whitman National Forest boundary at Silver Creek as a recreational river.

(83) **MALHEUR, OREGON.** -- The 13.7-mile segment from Bosonberg Creek to the Malheur National Forest boundary, to be administered by the Secretary of Agriculture in the following classes: (A) The 7-mile segment from Bosonberg Creek to Malheur Ford as a scenic river; and (B) the 6.7-mile segment from Malheur Ford to the Malheur National Forest boundary as a wild river.

(84) **MCKENZIE, OREGON.** -- The 12.7-mile segment from Clear Lake to Scott Creek; to be administered by the Secretary of Agriculture in the following classes: (A) The 1.8-mile segment from Clear Lake to the head of maximum pool at Carmen Reservoir as a recreational river; (B) the 4.3-mile segment from a point 100 feet downstream from Carmen Dam to the maximum pool at Trail Bridge Reservoir as a recreational river; and (C) the 6.6-mile segment from the developments at the base of the Trail Bridge Reservoir Dam to Scott Creek as a recreational river.

(85) **METOLIUS, OREGON.** -- The 28.6-mile segment from the south Deschutes National Forest boundary to Lake Billy Chinook in the following classes: (A) The 11.5-mile segment from the south Deschutes National Forest boundary (approximately 2,055.5 feet from Metolius Springs) to Bridge 99 as a recreational river; to be administered by the Secretary of Agriculture; (B) the 17.1-mile segment from Bridge 99 to Lake Billy Chinook as a scenic river; by the Secretary of Agriculture, through a cooperative management agreement between the Secretary of the Interior and the Confederated Tribes of the Warm Springs Reservation, as provided in section 10(e) of this Act and section 105 of the Omnibus Oregon Wild and Scenic Rivers Act of 1988: *Provided*, That the river and its adjacent land area will be managed to provide a primitive recreational experience as defined in the ROS User's Guide.

(86) **MINAM, OREGON.** -- The 39-mile segment from its headwaters at the south end of Minam Lake to the Eagle Cap Wilderness boundary, one-half mile downstream from Cougar Creek, as a wild river; to be administered by the Secretary of Agriculture.

(87) **NORTH FORK CROOKED, OREGON.** -- The 32.3-mile segment from its source at Williams Prairie to one mile from its confluence with the Crooked River in the following classes: (A) The 3-mile segment from its source at Williams Prairie to the Upper End of Big Summit Prairie as a recreational river; to be administered by the Secretary of Agriculture; (B) the 3.7-mile segment from the Lower End of Big Summit Prairie to the bridge across from the Deep Creek Campground as a recreational river; to be administered by the Secretary of Agriculture; (C) the 8-mile segment from the bridge across from the Deep Creek Campground to the Ochoco National Forest boundary, one-half mile from Lane Dog Creek as a scenic river; to be administered by the Secretary of Agriculture; (D) the 1.5-mile segment from the Ochoco National Forest boundary to Upper Falls as a scenic river; to be administered by the Secretary of the Interior; (E) the 11.1-mile segment from Upper Falls to Committee Creek as a wild river; to be administered by the Secretary of the Interior; and (F) the 5-mile segment from Committee Creek to one mile from its

confluence with the Crooked River as a recreational river; to be administered by the Secretary of the Interior.

(88) **NORTH FORK JOHN DAY, OREGON.** -- The 54.1-mile segment from its headwaters in the North Fork of the John Day Wilderness Area at section 13, township 8 south, range 36 east, to its confluence with Camas Creek in the following classes: (A) The 3.5-mile segment from its headwaters in the North Fork of the John Day Wilderness at section 13, township 8 south, range 36 east, to the North Fork of the John Day Wilderness boundary as a wild river; to be administered by the Secretary of Agriculture; (B) the 7.5-mile segment from the North Fork of the John Day Wilderness boundary to Trail Creek as a recreational river; to be administered by the Secretary of Agriculture; (C) the 24.3-mile segment from Trail Creek to Big Creek as a wild river; to be administered by the Secretary of Agriculture; (D) the 10.5-mile segment from Big Creek to Texas Bar Creek as a scenic river; to be administered by the Secretary of Agriculture; and (E) the 8.3-mile segment from Texas Bar Creek to its confluence with Camas Creek as a recreational river; to be administered by the Secretary of Agriculture.

(89) **NORTH FORK MALHEUR, OREGON.** -- The 25.5-mile segment from its headwaters to the Malheur National Forest boundary as a scenic river; to be administered by the Secretary of Agriculture.

(90) **NORTH FORK OF THE MIDDLE FORK OF THE WILLAMETTE, OREGON.** -- The 42.3-mile segment from Waldo Lake to the Willamette National Forest boundary, to be administered by the Secretary of Agriculture in the following classes: (A) The 8.8-mile segment from Waldo Lake to the south section line of section 36, township 19 south, range 5 1/2 east as a wild river; (B) the 6.5-mile segment from the south section line of section 36, township 19 south, range 5 1/2 east to Fisher Creek as a scenic river; and (C) the 27-mile segment from Fisher Creek to the Willamette National Forest boundary as a recreational river.

(91) **NORTH FORK OWYHEE, OREGON.** -- The 8-mile segment from the Oregon-Idaho State line to its confluence with the Owyhee River as a wild river; to be administered by the Secretary of the Interior.

(92) **NORTH FORK SMITH, OREGON.** -- The 13-mile segment from its headwaters to the Oregon-California State line; to be administered by the Secretary of Agriculture in the following classes: (A) The 6.5-mile segment from its headwaters to Horse Creek as a wild river; (B) the 4.5-mile segment from Horse Creek to Baldface Creek as a scenic river; and (C) the 2-mile segment from Baldface Creek to the Oregon-California State line as a wild river.

(93) **NORTH FORK SPRAGUE, OREGON.** -- The 15-mile segment from the head of River Spring in the southwest quarter of section 15, township 35 south, range 16 east, to the northwest quarter of the southwest quarter of section 11, township 35 south, range 15 east, as a scenic river; to be administered by the Secretary of Agriculture.

(94) **NORTH POWDER, OREGON.** -- The 6-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary at River Mile 20 as a scenic river; to be administered by the Secretary of Agriculture.

(95) **NORTH UMPQUA, OREGON.** -- The 33.8-mile segment from the Soda Springs Powerhouse to Rock Creek in the following classes: (A) The 25.4-mile segment from the Soda Springs Powerhouse to the Umpqua National Forest boundary as a recreational river; to be administered by the Secretary of Agriculture; and (B) the 8.4-mile segment from the Umpqua National Forest boundary to its confluence with Rock Creek as a recreational river; to be administered by the Secretary of the Interior.

(96) **POWDER, OREGON.** -- The 11.7-mile segment from Thief Valley Dam to the Highway 203 bridge as a scenic river; to be administered by the Secretary of the Interior.

(97) **QUARTZVILLE CREEK, OREGON.** -- The 12-mile segment from the Willamette National Forest boundary to slack water in Green Peter Reservoir as a recreational river; to be administered by the Secretary of the Interior.

(98) **ROARING, OREGON.** -- The 13.7-mile segment from its headwaters to its confluence with the Clackamas River; to be administered by the Secretary of Agriculture in the following classes: (A) The 13.5-mile segment from its headwaters to one-quarter mile upstream of the mouth as a wild river; and (B) the 0.2-mile segment from one-quarter mile upstream of the mouth to its confluence with the Clackamas River as a recreational river.

(99) **SALMON, OREGON.** -- The 33.5-mile segment from its headwaters to its confluence with the Sandy River in the following classes: (A) The 7-mile segment from its headwaters to the south boundary line of section 6, township 4 south, range 9 east as a recreational river; to be administered by the Secretary of Agriculture: *Provided*, That designation and classification shall not preclude the Secretary from exercising discretion to approve the construction, operation, and maintenance of ski lifts, ski runs, and associated facilities for the land comprising the Timberline Lodge Winter Sports Area insofar as such construction does not involve water resources projects; (B) the 15-mile segment from the south boundary line at section 6, township 4 south, range 9 east to the junction with the South Fork of the Salmon River as a wild river; be administered by the Secretary of Agriculture; (C) the 3.5-mile segment from the junction with the south fork of the Salmon River to the Mt. Hood National Forest boundary as a recreational river; to be administered Lymp Creek as a recreational river; to be administered by the Secretary of the Interior; and (E) the 4.8-mile segment from Lymp Creek to its confluence with the Sandy River as a scenic river; to be administered by the Secretary of the Interior.

(100) **SANDY, OREGON.** -- Those portions as follows: (A) The 4.5-mile segment from its headwaters to the section line between sections 15 and 22, township 2 south, range 8 east as a wild river; to be administered by the Secretary of Agriculture; (B) the 7.9-mile segment from the section line between sections 15 and 22, township 2 south, range 8 east to the Mt. Hood National Forest boundary at the west section line of section 26, township 2 south, range 7 east as a recreational river; to be administered by the Secretary of Agriculture; and (C) the 12.5-mile segment from the east boundary of sections 25 and 36, township 1 south, range 4 east in Clackamas County near Dodge Park, downstream to the west line of the east half of the northeast quarter of section 6, township 1 south, range 4 east, in Multnomah County at Dabney State Park, the upper 3.8 miles as a scenic river and the lower 8.7 miles as a recreational river; both to be administered through a cooperative management agreement between the State of Oregon, the Secretary of the Interior and the Counties of Multnomah and Clackamas in accordance with section 10(e) of this Act.

(101) **SOUTH FORK JOHN DAY, OREGON.** -- The 47-mile segment from the Malheur National Forest to Smokey Creek as a recreational river; to be administered by the Secretary of the Interior.

(102) **SQUAW CREEK, OREGON.** -- The 15.4-mile segment from its source to the hydrologic Gaging Station 800 feet upstream from the intake of the McAllister Ditch, including the Soap Fork Squaw Creek, the North Fork, the South Fork, the East and West Forks of Park Creek, and Park Creek Fork; to be administered by the Secretary of Agriculture as follows: (A) The 6.6-mile segment and its tributaries from the source to the Three Sisters Wilderness boundary as a wild river; and (B) the 8.8-mile segment from the boundary of the Three Sisters Wilderness Area to the hydrologic Gaging Station 800 feet upstream from the intake of the McAllister Ditch as a scenic river: *Provided*, That nothing in this Act shall prohibit the construction of facilities necessary for emergency protection for the town of Sisters relative to a rapid discharge of Carver Lake if no other reasonable flood warning or control alternative exists.

(103) **SYCAN, OREGON.** -- The 59-mile segment from the northeast quarter of section 5, township 34 south, range 17 east to Coyote Bucket at the Fremont National Forest boundary; to be administered by the Secretary of Agriculture in the following classes: (A) The 26.4-mile segment from the northeast quarter of section 5, township 34 south, range 17 east to the west section line of section 22, township 32 south, range 14 1/2 east, as a scenic river; (B) the 8.6-mile segment from the west section line of section 22, township 32 south, range 14 east, to the Fremont National Forest boundary in the southeast quarter of section 10, township 33 south, range 13 east, as a recreational river; and (C) the 24-mile segment from the Fremont National Forest boundary in the southwest quarter of section 10, township 33 south, range 13 east, to Coyote Bucket at the Fremont National Forest boundary, as a scenic river.

(104) **UPPER ROGUE, OREGON.** -- The 40.3-mile segment from the Crater Lake National Park boundary to the Rogue River National Forest boundary; to be administered by the Secretary of Agriculture in the following classes: (A) The 0.5-mile segment from the Crater Lake National Park boundary to approximately 0.1-mile downstream from the forest road 6530760 (West Lake Road) crossing as a scenic river; (B) the 6.1-mile segment from approximately 0.1-mile downstream from the forest road 6530760 (West Lake Road) crossing to Minehaha Creek as a wild river; and (C) the 33.7-mile segment from

Minehaha Creek to the Rogue River National Forest boundary as a scenic river.

(105) **WENAH, OREGON.** -- The 21.55-mile segment from the confluence of the North Fork and the South Fork to its confluence with the Grande Ronde River; to be administered by the Secretary of Agriculture in the following classes: (A) The 18.7-mile segment from the confluence of the North Fork and South Fork to the Umatilla National Forest as a wild river; (B) the 2.7-mile segment from the Umatilla National Forest boundary to the eastern most boundary of the Wenaha State Wildlife Area as a scenic area; and (C) the 0.15-mile segment from the eastern most boundary of the Wenaha State Wildlife Area to the confluence with the Grande Ronde River as a recreational river.

(106) **WEST LITTLE OWYHEE, OREGON.** -- The 51-mile segment from its headwaters to its confluence with Owyhee River as a wild river; to be administered by the Secretary of the Interior.

(107) **WHITE, OREGON.** -- The 46.5-mile segment from its headwaters to its confluence with the Deschutes River in the following classes: (A) The 2-mile segment from its headwaters to the section line between sections 9 and 16, township 3 south, range 9 east, as a recreational river; to be administered by the Secretary of Agriculture; *Provided*, That designation and classification shall not preclude the Secretary from exercising discretion to approve construction, operation, and maintenance of ski lifts, ski runs, and associated facilities for the land comprising the Mt. Hood Winter Sports Area insofar as such construction does not involve water resource projects and is consistent with protecting the values for which the river was designated; (B) the 13.6-mile segment from the section line between sections 9 and 16, township 3 south, range 9 east, to Deep Creek as a recreational river; to be administered by the Secretary of Agriculture; (C) the 6.5-mile segment from Deep Creek to the Mt. Hood National Forest boundary as a scenic river; to be administered by the Secretary of the Interior; (D) the 17.5-mile segment from the Mt. Hood National Forest boundary to Three Mile Creek as a scenic river; to be administered by the Secretary of the Interior; (E) the 5.3-mile segment from Three Mile Creek to River Mile 2.2 as a recreational river; to be administered by the Secretary of the Interior; and (F) the 1.6-mile segment from River Mile 1.6 to its confluence with the Deschutes River as a recreational river; to be administered by the Secretary of the Interior.

(108) **RIO CHAMA, NEW MEXICO.** -- The segment extending from El Vado Ranch launch site (immediately south of El Vado Dam) downstream approximately 24.6 miles to elevation 6,353 feet above mean sea level; to be administered by the Secretary of Agriculture and the Secretary of the Interior. For purposes of compliance with the planning requirements of subsection (d), the Cooperative Management Plan for the river prepared by the Secretary of Agriculture and the Secretary of the Interior may be revised and amended to the extent necessary to conform to the provisions of this Act. The segment of the Rio Chama beginning at the El Vado Ranch launch site downstream to the beginning of Forest Service Road 151 shall be administered as a wild river and the segment downstream from the beginning of Forest Service Road 151 to elevation 6,353 feet shall be administered as a scenic river.¹⁵

(109) **EAST FORK OF JEMEZ, NEW MEXICO.** -- The 11-mile segment from the Santa Fe National Forest boundary to its confluence with the Rio San Antonio; to be administered by the Secretary of Agriculture in the following classifications: (A) The 2-mile segment from the Santa Fe National Forest boundary to the second crossing of State Highway 4, near Las Conchas Trailhead, as a recreational river; and (B) the 4-mile segment from the second crossing of State Highway 4, near Las Conchas Trailhead, to the third crossing of the State Highway 4, approximately one and one-quarter miles upstream from Jemez Falls, as a wild river; and (C) the 5-mile segment from the third crossing of State Highway 4, approximately one and one-quarter miles upstream from Jemez Falls, to its confluence with the Rio San Antonio, as a scenic river. After the enactment of this paragraph, Federal lands within the boundaries of the segments designated under this paragraph or which constitute the bed or bank or are situated within one-quarter mile of the ordinary highwater mark on each side of such segments are withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws of the United States, and no patent may be issued for the surface estate with respect to any mining claim located on such lands. Nothing in this paragraph shall be construed as precluding mining operations on any valid existing claim, subject to applicable regulations under section 9.

(110) **PECOS RIVER, NEW MEXICO.** -- The 20.5 mile segment from its headwaters to the townsite of Tererro; to be administered by the Secretary of Agriculture in the following classifications: (A) The 13.5 mile segment from its headwaters to the Pecos Wilderness boundary, as a wild river; and (B) the

7-mile segment from the Pecos Wilderness boundary to the townsite of Tererro, as a recreational river. After the enactment of this paragraph, Federal lands within the boundaries of the segments designated under this paragraph or which constitute the bed or bank or are situated within one-quarter mile of the ordinary highwater mark on each side of such segments are withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws of the United States, and no patent may be issued for the surface estate with respect to any mining claim located on such lands. Nothing in this paragraph shall be construed as precluding mining operations on any valid existing claim, subject to applicable regulations under section 9.

(111) **SMITH RIVER, CALIFORNIA.** -- The segment from the confluence of the Middle Fork Smith River and the North Fork Smith River to the Six Rivers National Forest boundary, including the following segments of the mainstem and certain tributaries, to be administered by the Secretary of Agriculture in the following classes: (A) The segment from the confluence of the Middle Fork Smith River and the South Fork Smith River to the National Forest boundary, as a recreational river; (B) Rowdy Creek from the California-Oregon State line to the National Forest boundary, as a recreational river.

(112) **MIDDLE FORK SMITH RIVER, CALIFORNIA.** -- The segment from the headwaters to its confluence with the North Fork Smith River, including the following segments of the mainstem and certain tributaries, to be administered by the Secretary of Agriculture in the following classes: (A) The segment from its headwaters about 3 miles south of Sanger Lake, as depicted on the 1956 USGS 15| Preston Peak topographic map, to the center of section 7, T. 17 N., R. 5 E., as a wild river; (B) the segment from the center of section 7, T. 17 N., R. 5 E., to the center of section 6, T. 17 N., R. 5 E., as a scenic river; (C) the segment from the center of section 6, T. 17 N., R. 5 E., to one-half mile upstream from its confluence with Knopki Creek, as a wild river; (D) the segment from one-half mile upstream of its confluence with Knopki Creek to its confluence with the South Fork Smith River, as a recreational river; (E) Myrtle Creek from its headwaters in section 9, T. 17 N., R. 1 E., as depicted on the 1952 USGS 15| Crescent City topographic map, to the middle of section 28, T. 17 N., R. 1 E., as a scenic river; (F) Myrtle Creek from the middle of section 28, T. 17 N., R. 1 E., to its confluence with the Middle Fork Smith River, as a wild river; (G) Shelly Creek from its headwaters in section 1, T. 18 N., R. 3 E., as depicted on the 1951 USGS 15| Gasquet topographic map, to its confluence with Patrick Creek, as a recreational river; (H) Kelly Creek from its headwaters in section 32, T. 17 N., R. 3 E., as depicted on the 1951 USGS 15| Gasquet topographic map, to its confluence with the Middle Fork Smith River, as a scenic river; (I) Packsaddle Creek from its headwaters about 0.8 miles southwest of Broken Rib Mountain, as depicted on the 1956 USGS 15| Preston Peak topographic map, to its confluence with the Middle Fork Smith River, as a scenic river; (J) East Fork Patrick Creek from its headwaters in section 10, T. 18 N., R. 3 E., as depicted as a recreational river; (K) West Fork Patrick Creek from its headwaters in section 18, T. 18 N., R. 3 E., as depicted on the 1951 15| Gasquet topographic map to its confluence with the East Fork Patrick Creek, as a recreational river; (L) Little Jones Creek from its headwaters in section 34, T. 17 N., R. 3 E., as depicted on the 1951 USGS 15| Gasquet topographic map to its confluence with the Middle Fork Smith River, as a recreational river; (M) Griffin Creek from its headwaters about 0.2 miles southwest of Hazel View Summit, as depicted on the 1956 USGS 15| Preston Peak topographic map, to its confluence with the Middle Fork Smith River, as a recreational river; (N) Knopki Creek from its headwaters about 0.4 miles west of Sanger Peak, as depicted on the 1956 USGS 15| Preston Peak topographic map, to its confluence with the Middle Fork Smith River, as a recreational river; (O) Monkey Creek from its headwaters in the northeast quadrant of section 12, T. 18 N., R. 3 E., as depicted on the 1951 USGS 15| Gasquet topographic map, to its confluence with the Middle Fork Smith River, as a recreational river; (P) Patrick Creek from the junction of East and West Forks of Patrick Creek to its confluence with Middle Fork Smith River, as a recreational river; (Q) Hardscrabble Creek from its headwaters in the northeast quarter of section 2, T. 17 N., R. 1 E., as depicted on the 1952 USGS 15| Crescent City topographic map, to its confluence with the Middle Fork Smith River, as a recreational river.

(113) **NORTH FORK SMITH RIVER, CALIFORNIA.** -- The segment from the California-Oregon State line to its confluence with the Middle Fork Smith River, including the following segments of the mainstem and certain tributaries, to be administered by the Secretary of Agriculture in the following classes: (A) The segment from the California-Oregon State line to its confluence with an unnamed

tributary in the northeast quarter of section 5, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15| Gasquet topographic map, as a wild river; (B) the segment from its confluence with an unnamed tributary in the northeast quarter of section 5, T. 18 N., R. 2 E., as depicted on the 1951 15| Gasquet topographic map, as a scenic river; (C) the segment from its southern-most intersection with the eastern section line of section 5, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15| Gasquet topographic map, to its confluence with Stony Creek, as a wild river; (D) the segment from its confluence with Stony Creek to its confluence with the Middle Fork Smith River, as a recreational river; (E) Diamond Creek from California-Oregon State line to its confluence with Bear Creek, as a recreational river; (F) Diamond Creek from its confluence with Bear Creek to its confluence with the North Fork Smith River, as a scenic river; (G) Bear Creek from its headwaters in section 24, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15| Gasquet topographic map, to its confluence with Diamond Creek, as a scenic river; (H) Still Creek from its headwaters in section 11, T. 18 N., R. 1 E., as depicted on the 1952 USGS 15| Crescent City topographic map, to its confluence with the North Fork Smith River, as a scenic river; (I) North Fork Diamond Creek from the California-Oregon State line to its confluence with Diamond Creek, as a recreational river; (J) High Plateau Creek from its headwaters in section 26, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15| Gasquet topographic map, to its confluence with Diamond Creek, as a scenic river; (K) Stony Creek from its headwaters in section 25, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15| Gasquet topographic map, to its confluence with the North Fork Smith River, as a scenic river; (L) Peridotite Creek from its headwaters in section 34, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15| Gasquet topographic map, to its confluence with the North Fork Smith River, as a wild river.

(114) **SISKIYOU FORK SMITH RIVER, CALIFORNIA.** -- The segment from its headwaters to its confluence with the Middle Fork Smith River, and the following tributaries, to be administered by the Secretary of Agriculture in the following classes: (A) The segment from its headwaters about 0.7 miles southeast of Broken Rib Mountain, as depicted on the 1956 USGS 15| Preston Peak topographic map, to its confluence with the South Siskiyou Fork Smith River, as a wild river; (B) the segment from its confluence with the South Siskiyou Fork Smith River to its confluence with the Middle Fork Smith River, as a recreational river; (C) South Siskiyou Fork Smith River from its headwaters about 0.6 miles southwest of Buck Lake, as depicted on the 1956 USGS 15| Preston Peak topographic map, to its confluence with the Siskiyou Fork Smith River, as a wild river.

(115) **SOUTH FORK SMITH RIVER, CALIFORNIA.** -- The segment from its headwaters to its confluence with the main stem of the Smith River, and the following tributaries, to be administered by the Secretary of Agriculture in the following classes: (A) The segment from its headwaters about 0.5 miles southwest of Bear Mountain, as depicted on 1956 USGS 15| Preston Peak topographic map, to Blackhawk Bar, as a wild river; (B) the segment from Blackhawk Bar to its confluence with the main stem of the Smith River, as a recreational river; (C) Williams Creek from its headwaters in section 31, T. 14 N., R. 4 E., as depicted on the 1952 USGS 15| Ship Mountain topographic map, to its confluence with Eight Mile Creek, as a wild river; (D) Eightmile Creek from its headwaters in section 29, T. 14 N., R. 4 E., as depicted on the 1955 USGS 15| Dillon Mountain topographic map, to its confluence with the South Fork Smith River, as a wild river; (E) Harrington Creek from its source to its confluence with the South Fork Smith River, as a wild river; (F) Prescott Fork of the Smith River from its headwaters about 0.5 miles southeast of Island Lake, as depicted on the 1955 USGS 15| Dillon Mountain topographic map, to its confluence with the South Fork Smith River, as a wild river; (G) Quartz Creek from its headwaters in section 31, T. 16 N., R. 4 E., as depicted on the 1952 15| USGS Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river; (H) Jones Creek from its headwaters in section 36, T. 16 N., R. 3 E., as depicted on the 1952 USGS 15| Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river; (H) Jones Creek from its headwaters in section 36, T. 16 N., R. 3 E., as depicted on the 1952 USGS 15| Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river; (I) Hurdygurdy Creek from its headwaters about 0.4 miles southwest of Bear Basin Butte, as depicted on the 1956 USGS 15| Preston Peak topographic map, to its confluence with the South Fork Smith River, as a recreational river; (J) Gordon Creek from its headwaters in section 18, T. 16 N., R. 3 E., as depicted on the 1951 USGS 15| Gasquet topographic map, to its confluence with the South Fork Smith River, as a recreational river; (K)

Coon Creek from the junction of its two headwaters tributaries in the southeast quadrant of section 31, T. 17 N., R. 3 E., as depicted on the 1951 USGS 15' Gasquet topographic map, to its confluence with the South Fork Smith River, as a recreational river; (L) Craigs Creek from its headwaters in section 36, T. 17 N., R. 2 E., as depicted on the 1951 USGS 15' Gasquet topographic map, to its confluence with the South Fork Smith River, as a recreational river; (M) Goose Creek from its headwaters in section 13, T. 13 N., R. 2 E., as depicted on the 1952 USGS 15' Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river; (N) East Fork Goose Creek from its headwaters in section 18, T. 13 N., R. 3 E., as depicted on the 1952 USGS 15' Ship Mountain topographic map, to its confluence with Goose Creek, as a recreational river; (O) Buck Creek from its headwaters at Cedar Camp Spring, as depicted on the 1952 USGS 15' Ship Mountain topographic map, to the northeast corner of section 8, T. 14 N., R. 3 E., as a scenic river; (P) Buck Creek from the northeast corner of section 8, T. 14 N., R. 3 E., to its confluence with the South Fork Smith River, as a wild river; (Q) Muzzleloader Creek from its headwaters in section 2, T. 15 N., R. 3 E., as depicted on the 1952 USGS 15' Ship Mountain topographic map, to its confluence with Jones Creek, as a recreational river; (R) Canthook Creek from its headwaters in section 2, T. 15 N., R. 3 E., as depicted on the 1952 USGS 15' Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river; (S) Rock Creek from the national forest boundary in section 6, T. 15 N., R. 2 E., as depicted on the 1952 USGS 15' Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river; (T) Blackhawk Creek from its headwaters in section 21, T. 15 N., R. 2 E., as depicted on the 1952 USGS 15' Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river.

(116) CLARKS FORK, WYOMING.--

(A) The twenty and five-tenths-mile segment from the west boundary of section 3, township 56 north, range 106 west at the Crandall Creek Bridge downstream to the north boundary of section 13, township 56 north, range 104 west at Clarks Fork Canyon; to be administered by the Secretary of Agriculture as a wild river. Notwithstanding subsection (b), the boundary of the segment shall include all land within four hundred and forty yards from the ordinary high water mark on both sides of the river. No land or interest in land may be acquired with respect to the segment without the consent of the owner thereof. For the purposes of carrying out this paragraph, there is authorized to be appropriated \$500,000 for development and \$750,000 for the acquisition of land and interests therein.

(B) Designation of a segment of the Clarks Fork by this paragraph as a component of the Wild and Scenic Rivers System shall not be utilized in any Federal proceeding, whether concerning a license, permit, right-of-way, or any other Federal action, as a reason or basis to prohibit the development or operation of any water impoundment, diversion facility, or hydroelectric power and transmission facility located entirely downstream from the segment of the river designated by this paragraph: *Provided*, That water from any development shall not intrude upon such segment. Congress finds that development of water impoundments, diversion facilities, and hydroelectric power and transmission facilities located entirely downstream from the segment of the river is not incompatible with its designation as a component of the Wild and Scenic Rivers System.

(C) The Secretary of Agriculture is directed to apply for the quantification of the water right reserved by the inclusion of a portion of the Clarks Fork in the Wild and Scenic Rivers System in accordance with the procedural requirements of the laws of the State of Wyoming: *Provided*, That, notwithstanding any provision of the laws of the State of Wyoming otherwise applicable to the granting and exercise of water rights, the purposes for which the Clarks Fork is designated, as set forth in this Act and this paragraph, are declared to be beneficial uses and the priority date of such right shall be the date of enactment of this paragraph [November 28, 1990].

(D) The comprehensive management plan developed under subsection (d) for the segment designated by this paragraph shall provide for all such measures as may be necessary in the control of fire, insects, and diseases to fully protect the values for which the segment is designated as a wild river.

(117) NIOBRARA, NEBRASKA. --

(A) The 40-mile segment from Borman Bridge southeast of Valentine downstream to its confluence with Chimney Creek and the 30-mile segment from the river's confluence with Rock Creek downstream to the State Highway 137 bridge, both segments to be classified as scenic and administered by the Secretary of

the Interior. That portion of the 40-mile segment designated by this subparagraph located within the Fort Niobrara National Wildlife Refuge shall continue to be managed by the Secretary through the Director of the United States Fish and Wildlife Service.

(B) The 25-mile segment from the western boundary of Knox County to its confluence with the Missouri River, including that segment of the Verdigre Creek from the north municipal boundary of Verdigre, Nebraska, to its confluence with the Niobrara, to be administered by the Secretary of the Interior as a recreational river. After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section.¹⁶

(118) **MISSOURI RIVER, NEBRASKA AND SOUTH DAKOTA.** -- The 39-mile segment from the headwaters of Lewis and Clark Lake to the Ft. Randall Dam, to be administered by the Secretary of the Interior as a recreational river.¹⁷

(119) **BEAR CREEK, MICHIGAN.** -- The 6.5-mile segment from Coates Highway to the Manistee River, to be administered by the Secretary of Agriculture as a scenic river.¹⁷

(120) **BLACK, MICHIGAN.** -- The 14-mile segment from the Ottawa National Forest boundary to Lake Superior, to be administered by the Secretary of Agriculture as a scenic river.

(121) **CARP, MICHIGAN.** -- The 27.8-mile segment from the west section line of section 30, township 43 north, range 5 west, to Lake Huron, to be administered by the Secretary of Agriculture in the following classes: (A) The 2.3-mile segment from the west section line of section 30, township 43 north, range 5 west, to Forest Development Road 3458 in section 32, township 43 north, range 5 west, as a scenic river; (B) the 6.5-mile segment from the Forest Development Road 3458 in section 32, township 43 north, range 5 west, to Michigan State Highway 123, as a scenic river; (C) the 7.5-mile segment from Michigan State Highway 123 to one quarter of a mile upstream from Forest Development Road 3119, as a wild river; (D) the 0.5-mile segment from one quarter of a mile upstream of Forest Development Road 3119 to one quarter mile downstream of Forest Development Road 3119, as a scenic river; (E) the 4.9-mile segment from one quarter of a mile downstream of Forest Development Road 3119 to McDonald Rapids, as a wild river; (F) the 6.1-mile segment from McDonald Rapids to Lake Huron, as a recreational river.

(122) **INDIAN, MICHIGAN.** -- The 51-mile segment from Hovey Lake to Indian Lake to be administered by the Secretary of Agriculture in the following classes: (A) The 12-mile segment from Hovey Lake to Fish Lake, as a scenic river; (B) the 39-mile segment from Fish Lake to Indian Lake, as a recreational river.

(123) **MANISTEE, MICHIGAN.** -- The 26-mile segment from the Michigan DNR boat ramp below Tippy Dam to the Michigan State Highway 55 bridge, to be administered by the Secretary of Agriculture as a recreational river.

(124) **ONTONAGON, MICHIGAN.** -- Segments of certain tributaries, totaling 157.4 miles, to be administered by the Secretary of Agriculture as follows: (A) The 46-mile segment of the East Branch Ontonagon from its origin at Spring Lake to the Ottawa National Forest boundary in the following classes: (i) the 20.5-mile segment from its origin at Spring Lake to its confluence with an unnamed stream in section 30, township 48 north, range 37 west, as a recreational river, (ii) the 25.5-mile segment from its confluence with an unnamed stream in section 30, township 48 north, range 37 west, to the Ottawa National Forest boundary, as a wild river; (B) the 59.4-mile segment of the Middle Branch Ontonagon, from its origin at Crooked Lake to the northern boundary of the Ottawa National Forest in the following classes: (i) the 20-mile segment from its origin at Crooked Lake to Burned Dam, as a recreational river, (ii) the 8-mile segment from Burned Dam to Bond Falls Flowage, as a scenic river, (iii) the 8-mile segment from Bond Falls to Agate Falls, as a recreational river, (iv) the 6-mile segment from Agate Falls to Trout Creek, as a scenic river, (v) the 17.4-mile segment from Trout Creek to the northern boundary of the Ottawa National Forest, as a wild river; (C) the 37-mile segment of the Cisco Branch Ontonagon from its origin at Cisco Lake Dam to its confluence with Ten-Mile Creek south of Ewen in the following classes: (i) the 10-mile segment from the origin of Cisco Branch Ontonagon at Cisco Lake Dam to the County Road 527 crossing, as a recreational river, (ii) the 27-mile segment from the Forest Development Road 527 crossing to the confluence of the Cisco Branch and Ten-Mile Creek, as a scenic river; (D) the 15-mile segment of the West Branch Ontonagon from its confluence with Cascade Falls to Victoria Reservoir, in the following classes: (i) the 10.5-mile segment from its confluence with Cascade Falls to its confluence with the South Branch

Ontonagon, as a recreational river, (ii) The 4.5-mile segment from its confluence with the South Branch Ontonagon to Victoria Reservoir, as a recreational river. Notwithstanding any limitation contained in this Act, the Secretary is authorized to acquire lands and interests in lands which, as of August 1, 1990, were owned by Upper Peninsula Energy Corporation, and notwithstanding any such limitation, such lands shall be retained and managed by the Secretary as part of the Ottawa National Forest, and those lands so acquired which are within the boundaries of any segment designated under this paragraph shall be retained and managed pursuant to this Act.

(125) **PAINT, MICHIGAN.** -- Segments of the mainstream and certain tributaries, totaling 51 miles, to be administered by the Secretary of Agriculture as follows: (A) The 6-mile segment of the main stem from the confluence of the North and South Branches Paint to the Ottawa National Forest boundary, as a recreational river; (B) the 17-mile segment of the North Branch Paint from its origin at Mallard Lake to its confluence with the South Branch Paint, as a recreational river; (C) the 28-mile segment of the South Branch Paint from its origin at Paint River Springs to its confluence with the North Branch Paint, as a recreational river.

(126) **PINE, MICHIGAN.** -- The 25-mile segment from Lincoln Bridge to the east 1/16th line of section 16, township 21 north, range 13 west, to be administered by the Secretary of Agriculture as a scenic river.

(127) **PRESQUE ISLE, MICHIGAN.** -- Segments of the mainstream and certain tributaries, totaling 57 miles, to be administered by the Secretary of Agriculture as follows: (A) The 23-mile segment of the mainstream, from the confluence of the East and West Branches of Presque Isle to Minnewawa Falls, to be classified as follows: (i) the 17-mile segment from the confluence of the East and West Branches Presque Isle to Michigan State Highway 28, as a recreational river, (ii) the 6-mile segment from Michigan State Highway 28 to Minnewawa Falls, as a scenic river; (B) the 14-mile segment of the East Branch Presque Isle within the Ottawa National Forest, as a recreational river; (C) the 7-mile segment of the South Branch Presque Isle within the Ottawa National Forest, as a recreational river; (D) the 13-mile segment of the West Branch Presque Isle within the Ottawa National Forest, as a scenic river.

(128) **STURGEON, HIAWATHA NATIONAL FOREST MICHIGAN.** -- The 43.9-mile segment from the north line of section 26, township 43 north, range 19 west, to Lake Michigan, to be administered by the Secretary of Agriculture in the following classes: (A) The 21.7-mile segment from the north line of section 26, township 43 north, range 19 west, to Forest Highway 13 as a scenic river; (B) the 22.2-mile segment from Forest Highway 13 to Lake Michigan as a recreational river.

(129) **STURGEON, OTTAWA NATIONAL FOREST, MICHIGAN.** -- The 25-mile segment from its entry into the Ottawa National Forest to the northern boundary of the Ottawa National Forest, to be administered by the Secretary of Agriculture in the following classes: (A) The 16.5-mile segment from its entry into the Ottawa National Forest to Prickett Lake, as a wild river; (B) the 8.5-mile segment from the outlet of Prickett Lake Dam to the northern boundary of the Ottawa National Forest, as a scenic river.

(130) **EAST BRANCH OF THE TAHQUAMENON, MICHIGAN.** -- The 13.2-mile segment from its origin in section 8, township 45 north, range 5 west, to the Hiawatha National Forest boundary, to be administered by the Secretary of Agriculture in the following classes: (A) The 10-mile segment from its origin in section 8, township 45 north, range 5 west, to the center of section 20, township 46 north, range 6 west, as a recreational river; (B) the 3.2-mile segment from the center of section 20, township 46 north, range 6 west, to the boundary of the Hiawatha National Forest, as a wild river.

(131) **WHITEFISH, MICHIGAN.** -- Segments of the mainstream and certain tributaries, totaling 33.6 miles, to be administered by the Secretary of Agriculture as follows: (A) The 11.1-mile segment of the mainstream from its confluence with the East and West Branches of the Whitefish to Lake Michigan in the following classes: (i) the 9-mile segment from its confluence with the East and West Branches of the Whitefish to the Center of section 16, township 41 north, range 21 west, as a scenic river, (ii) the 2.1-mile segment from the center of section 16, township 41 north, range 21 west, to Lake Michigan, as a recreational river; (B) the 15-mile segment of the East Branch Whitefish from the crossing of County Road 003 in section 6, township 44 north, range 20 west, to its confluence with the West Branch Whitefish, as a scenic river; (C) the 7.5-mile segment of the West Branch Whitefish from County Road 444 to its confluence with the East Branch Whitefish, as a scenic river.

(132) **YELLOW DOG, MICHIGAN.** -- The 4-mile segment from its origin at the outlet of Bulldog Lake Dam to the boundary of the Ottawa National Forest, to be administered by the Secretary of Agriculture as a wild river.

(133) **ALLEGHENY, PENNSYLVANIA.** -- The segment from Kinzua Dam downstream approximately 7 miles to the United States Route 6 Bridge, and the segment from Buckaloons Recreation Area at Irvine, Pennsylvania, downstream approximately 47 miles to the southern end of Alcorn Island at Oil City, to be administered by the Secretary of Agriculture as a recreational river through a cooperative agreement with the Commonwealth of Pennsylvania and the counties of Warren, Forest, and Venango, as provided under section 10(e) of this Act; and the segment from the sewage treatment plant at Franklin downstream approximately 31 miles to the refinery at Emlenton, Pennsylvania, to be administered by the Secretary of Agriculture as a recreational river through a cooperative agreement with the Commonwealth of Pennsylvania and Venango County, as provided under section 10(e) of this Act.¹⁸

(134) **BIG PINEY CREEK, ARKANSAS.** -- The 45.2-mile segment from its origin in section 27, township 13 north, range 23 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture as a scenic river.¹⁹

(135) **BUFFALO RIVER, ARKANSAS.** -- The 15.8-mile segment from its origin in section 22, township 14 north, range 24 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture in the following classes: (A) The 6.4-mile segment from its origin in section 22, township 14 north, range 24 west, to the western boundary of the Upper Buffalo Wilderness, as a scenic river; (B) the 9.4-mile segment from the western boundary of the Upper Buffalo Wilderness to the Ozark National Forest boundary, as a wild river.

(136) **COSSATOT RIVER, ARKANSAS.** -- Segments of the main stem and certain tributaries, totaling 20.1 miles, to be administered as follows: (A) The 4.2-mile segment of the main stem from its confluence with Mine Creek to the Caney Creek Wilderness Boundary on the north section line of section 13, township 4 south, range 30 west, to be administered by the Secretary of Agriculture as a recreational river; (B) the 6.9-mile segment of the main stem from the Caney Creek Wilderness Boundary on the north section line of section 13, township 4 south, range 30 west, to the south section line of section 20, township 4 south, range 30 west, to be administered by the Secretary of Agriculture as a scenic river; (C) the 4.4-mile segment of the Brushy Creek tributary from the north line of the south 1/2 of the southeast 1/4 of section 7, township 4 south, range 30 west, to the south section line of section 20, township 4 south, range 30 west, to be administered by the Secretary of Agriculture as a scenic river; (D) the 4.6-mile segment of the main stem from the State Highway 4 bridge to Duchett's Ford, to be administered by the Secretary of the Army as a scenic river consistent with the operation of Gillham Dam (as authorized by section 203 of the Flood Control Act of 1958 (Public Law 85-500)). For purposes of management of such segment, the Secretary of the Army may enter into a cooperative agreement or memorandum of understanding or other appropriate arrangement with the Secretary of Agriculture or an appropriate official of the State of Arkansas.

(137) **HURRICANE CREEK, ARKANSAS.** -- The 15.5-mile segment from its origin in section 1, township 13 north, range 21 west, to its confluence with Big Piney Creek, to be administered by the Secretary of Agriculture in the following classes: (A) The 11.8-mile segment from its origin in section 1, township 13 north, range 21 west, to the western boundary of the private land bordering Hurricane Creek Wilderness, as a scenic river; (B) the 2.4-mile segment from the western boundary of the private land bordering the Hurricane Creek Wilderness to the Hurricane Creek Wilderness boundary, as a wild river; (C) the 1.3-mile segment from the Hurricane Creek Wilderness boundary to its confluence with Big Piney Creek, as a scenic river.

(138) **LITTLE MISSOURI RIVER, ARKANSAS.** -- Segments totaling 15.7 miles, to be administered by the Secretary of Agriculture in the following classes: (A) The 11.3-mile segment from its origin in the northwest 1/4 of section 32, township 3 south, range 28 west, to the west section line of section 22, township 4 south, range 27 west, as a scenic river; (B) the 4.4-mile segment from the north line of the southeast 1/4 of the southeast 1/4 of section 28, township 4 south, range 27 west, to the north line of the northwest 1/4 of the southwest 1/4 of section 5, township 5 south, range 27 west, as a wild river.

(139) **MULBERRY RIVER, ARKANSAS.** -- The 56.0-mile segment from its origin in section 32, township 13 north, range 23 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture in the following classes: (A) The 36.6-mile segment from its origin in section 32, township 13 north, range 23 west, to Big Eddy Hollow in section 3, township 11 north, range 27 west, as a recreational river; (B) the 19.4-mile segment from Big Eddy Hollow in section 3, township 11 north, range 27 west, to the Ozark National Forest boundary, as a scenic river.

(140) **NORTH SYLAMORE CREEK, ARKANSAS.** -- The 14.5-mile segment from the Clifty Canyon Botanical Area boundary to its confluence with the White River, to be administered by the Secretary of Agriculture as a scenic river.

(141) **RICHLAND CREEK, ARKANSAS.** -- The 16.5-mile segment from its origin in section 35, township 13 north, range 20 west, to the northern boundary of section 32, township 14 north, range 18 west, to be administered by the Secretary of Agriculture in the following classes: (A) The 7.8-mile segment from its origin in section 35, township 13 north, range 20 west, to the western boundary of the Richland Creek Wilderness, as a scenic river; (B) the 5.3-mile segment from the western boundary of the Richland Creek Wilderness to the eastern boundary of Richland Creek Wilderness, as a wild river; (C) the 3.4-mile segment from the eastern boundary of the Richland Creek Wilderness to the northern boundary of section 32, township 14 north, range 18 west, as a scenic river.

(142) **SESPE CREEK, CALIFORNIA.** -- The 4-mile segment of the main stem of the Creek from its confluence with Rock Creek and Howard Creek downstream to its confluence with Trout Creek, to be administered by the Secretary of Agriculture as a scenic river; and the 27.5-mile segment of the main stem of the creek extending from its confluence with Trout Creek downstream to where it leaves section 26, township 5 north, range 20 west, to be administered by the Secretary of Agriculture as a wild river.

(143) **SISQUOC RIVER, CALIFORNIA.** -- The 33-mile segment of the main stem of the river extending from its origin downstream to the Los Padres Forest boundary, to be administered by the Secretary of Agriculture as a wild river.

(144) **BIG SUR RIVER, CALIFORNIA.** -- The main stems of the South Fork and North Fork of the Big Sur River from their headwaters to their confluence and the main stem of the river from the confluence of the South and North Forks downstream to the boundary of the Ventana Wilderness in Los Padres National Forest, for a total distance of approximately 19.5 miles, to be administered by the Secretary of Agriculture as a wild river.

(145) **GREAT EGG HARBOR, NEW JERSEY.** -- 39.5-miles of the main stem to be administered by the Secretary of the Interior in the following classifications: (A) From the mouth of the Patcong Creek to the mouth of Perch Cove Run, approximately 10 miles, as a scenic river; (B) from Perch Cove Run to the Mill Street Bridge, approximately 5.5 miles, as a recreational river; (C) from Lake Lenape to the Atlantic City Expressway, approximately 21 miles, as a recreational river; and (D) from Williamstown-New Freedom Road to the Pennsylvania Railroad right-of-way, approximately 3 miles, as a recreational river, and 89.5 miles of the following tributaries to be administered by the Secretary of the Interior in the following classifications: (E) Squankum Branch from its confluence with Great Egg Harbor River to Malaga Road, approximately 4.5 miles, as a recreational river; (F) Big Bridge Branch, from its confluence with Great Egg Harbor River to headwaters, approximately 2.2 miles, as a recreational river; (G) Penny Pot Stream Branch, from its confluence with Great Egg Harbor River to 14th Street, approximately 4.1 miles, as a recreational river; (H) Deep Run, from its confluence with Great Egg Harbor River to Pancoast Mill Road, approximately 5.4 miles, as a recreational river; (I) Mare Run, from its confluence with Great Egg Harbor River to Weymouth Avenue, approximately 3 miles, as a recreational river; (J) Babcock Creek, from its confluence with Great Egg Harbor River to headwaters, approximately 7.5 miles, as a recreational river; (K) Gravelly Run, from its confluence with Great Egg Harbor River to Pennsylvania

Railroad Right-of-Way, approximately 2.7 miles, as a recreational river; (L) Miry Run, from its confluence with Great Egg Harbor River to Asbury Road, approximately 1.7 miles, as a recreational river; (M) South River, from its confluence with Great Egg Harbor to Main Avenue, approximately 13.5 miles, as a recreational river; (N) Stephen Creek, from its confluence with Great Egg Harbor River to New Jersey Route 50, approximately 2.3 miles, as a recreational river; (O) Gibson Creek, from its confluence with Great Egg Harbor River to First Avenue, approximately 5.6 miles, as a recreational river; (P) English Creek, from its confluence with Great Egg Harbor River to Zion Road, approximately 3.5 miles, as a recreational river; (Q) Lakes Creek, from its confluence with Great Egg Harbor River to the dam, approximately 2.2 miles, as a recreational river; (R) Middle River, from its confluence with Great Egg Harbor River to the levee, approximately 5.6 miles, as a scenic river; (S) Patcong Creek, from its confluence with Great Egg Harbor River to Garden State Parkway, approximately 2.8 miles, as a recreational river; (T) Tuckahoe River (lower segment) from its confluence with Great Egg Harbor River to the Route 50 bridge, approximately 9 miles, as a scenic river; (U) Tuckahoe River, from the Route 50 Bridge to Route 49 Bridge, approximately 7.3 miles, as a recreational river; and (V) Cedar Swamp Creek, from its confluence with Tuckahoe River to headwaters, approximately 6 miles, as a scenic river.

(146) **MAURICE RIVER, MIDDLE SEGMENT.**²⁰ -- From Route 670 Bridge at Mauricetown to 3.6 miles upstream (at drainage ditch just upstream of Fralinger Farm), approximately 3.8 miles to be administered by the Secretary of the Interior as a scenic river.

(147) **MAURICE RIVER, MIDDLE SEGMENT.** -- From the drainage ditch just upstream of Fralinger Farm to one-half mile upstream from the United States Geological Survey Station at Burcham Farm, approximately 3.1 miles, to be administered by the Secretary of the Interior as a recreational river.

(148) **MAURICE RIVER, UPPER SEGMENT.** -- From one-half mile upstream from the United States Geological Survey Station at Burcham Farm to the south side of the Millville sewage treatment plan, approximately 3.6 miles, to be administered by the Secretary of the Interior as a scenic river.

(149) **MENANTICO CREEK, LOWER SEGMENT.** -- From its confluence with the Maurice River to the Route 55 Bridge, approximately 1.4 miles, to be administered by the Secretary of the Interior as a recreational river.

(150) **MENANTICO CREEK, UPPER SEGMENT.** -- From the Route 55 Bridge to the base of the impoundment at Menantico Lake, approximately 6.5 miles, to be administered by the Secretary of the Interior as a scenic river.

(151) **MANUMUSKIN RIVER, LOWER SEGMENT.** -- From its confluence with the Maurice River to a point 2.0 miles upstream, to be administered by the Secretary of the Interior as a recreational river.

(152) **MANUMUSKIN RIVER, UPPER SEGMENT.** -- From a point 2.0 miles upstream from its confluence with the Maurice River to its headwaters near Route 557, approximately 12.3 miles, to be administered by the Secretary of the Interior as a scenic river.

(153) **MUSKEE CREEK, NEW JERSEY.** -- From its confluence with the Maurice River to the Pennsylvania Seashore Line Railroad Bridge, approximately 2.7 miles, to be administered by the Secretary of the Interior as a scenic river.²¹

(154) (A) **RED RIVER, KENTUCKY.** -- The 19.4-mile segment of the Red River extending from the Highway 746 Bridge to the School House Branch, to be administered by the Secretary of Agriculture in the following classes: (i) the 9.1-mile segment known as the "Upper Gorge" from the Highway 746 Bridge to Swift Camp Creek, as a wild river (this segment is identified as having the same boundary as the Kentucky Wild River), (ii) the 10.3-mile segment known as the "Lower Gorge" from Swift Camp Creek to the School House Branch, as a recreational river. (B) There are authorized to be appropriated such sums as are necessary to carry out this paragraph.²¹

(155) **RIO GRANDE, NEW MEXICO.** -- The main stem from the southern boundary of the segment of the Rio Grande designated pursuant to paragraph (4), downstream approximately 12 miles to the west section line of Section 15, Township 23 North, Range 10 East, to be administered by the Secretary of the Interior as a scenic river.²²

(156) **FARMINGTON RIVER, CONNECTICUT.** -- The 14-mile segment of the West Branch

and mainstem extending from immediately below the Goodwin Dam and Hydroelectric Project in Hartland, Connecticut, to the downstream end of the New Hartford-Canton, Connecticut, town line (hereinafter in the paragraph referred to as the "segment"), as a recreational river, to be administered by the Secretary of the Interior through cooperative agreements between the Secretary of the Interior and the State of Connecticut and its relevant political subdivisions, namely the Towns of Colebrook, Hartland, Barkhamsted, New Hartford, and Canton and the Hartford Metropolitan District Commission, pursuant to section 10(e) of this Act. The segment shall be managed in accordance with the Upper Farmington River Management Plan, dated April 29, 1993, and such amendments thereto as the Secretary of the Interior determines are consistent with this Act. Such plan shall be deemed to satisfy the requirement for a comprehensive management plan pursuant to section 3(d) of this Act.²³

Establishment of boundaries; classification.

(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of designation of such component under subsection (a) (except where a different date if [is] provided in subsection (a)), establish detailed boundaries therefor (which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river); and determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments. Notice of the availability of the boundaries and classification, and of subsequent boundary amendments shall be published in the *Federal Register* and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.

Public availability of maps and descriptions.

(c) Maps of all boundaries and descriptions of the classifications of designated river segments, and subsequent amendments to such boundaries, shall be available for public inspection in the offices of the administering agency in the District of Columbia and in locations convenient to the designated river.

Review requirements for early designations and management plans.

(d)(1) For rivers designated on or after January 1, 1986, the Federal agency charged with the administration of each component of the National Wild and Scenic Rivers System shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of this Act. The plan shall be coordinated with and may be incorporated into resource management planning for affected adjacent Federal lands. The plan shall be prepared, after consultation with State and local governments and the interested public within 3 full fiscal years after the date of designation. Notice of the completion and availability of such plans shall be published in the *Federal Register*.

(2) For rivers designated before January 1, 1986, all boundaries, classifications, and plans shall be reviewed for conformity within the requirements of this subsection within 10 years through regular agency planning processes.

Requirements for study reports.

SECTION 4. (a) The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and submit to the President reports on the suitability or unsuitability for addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as potential additions to such system. The President shall report to the Congress his recommendations and proposals with respect to the designation of each such river or section thereof under this Act. Such studies shall be completed and such reports shall be made to the Congress with respect to all rivers named in subparagraphs 5(a) (1) through (27) of this Act no

later than October 2, 1978. In conducting these studies the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers (i) with respect to which there is the greatest likelihood of developments which, if undertaken, would render the rivers unsuitable for inclusion in the national wild and scenic rivers system, and (ii) which possess the greatest proportion of private lands within their areas. Every such study and plan shall be coordinated with any water resources planning involving the same river which is being conducted pursuant to the Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 et seq.). Each report, including maps and illustrations, shall show among other things the area included within the report; the characteristics which do or do not make the area a worthy addition to the system; the current status of land ownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the national wild and scenic rivers system; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area, should it be added to the system, be administered; the extent to which it is proposed that such administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area, should it be added to the system. Each such report shall be printed as a Senate or House document.

(b) Before submitting any such report to the President and the Congress, copies of the proposed report shall, unless it was prepared jointly by the Secretary of the Interior and the Secretary of Agriculture, be submitted by the Secretary of the Interior to the Secretary of Agriculture or by the Secretary of Agriculture to the Secretary of the Interior, as the case may be, and to the Secretary of the Army, the Secretary of Energy, the head of any other affected Federal department or agency and, unless the lands proposed to be included in the area are already owned by the United States or have already been authorized for acquisition by Act of Congress, the Governor of the State or States in which they are located or an officer designated by the Governor to receive the same. Any recommendations or comments on the proposal which the said officials furnish the Secretary or Secretaries who prepared the report within ninety days of the date on which the report is submitted to them, together with the Secretary's or Secretaries' comments thereon, shall be included with the transmittal to the President and the Congress.

Review requirements for State components.

(c) Before approving or disapproving for inclusion in the national wild and scenic rivers system any river designated as a wild, scenic or recreational river by or pursuant to an act of the State legislature, the Secretary of the Interior shall submit the proposal to the Secretary of Agriculture, the Secretary of the Army, the Secretary of Energy, and the head of any other affected Federal department or agency and shall evaluate and give due weight to any recommendations or comments which the said officials furnish him within ninety days of the date on which it is submitted to them. If he approves the proposed inclusion, he shall publish notice thereof in the *Federal Register*.

Study boundaries.

(d) The boundaries of any river proposed in section 5(a) of this Act for potential addition to the National Wild and Scenic Rivers System shall generally comprise that area measured within one-quarter mile from the ordinary high water mark on each side of the river. In the case of any designated river, prior to publication of boundaries pursuant to section 3(b) of this Act, the boundaries also shall comprise the same area. This subsection shall not be construed to limit the possible scope of the study report to address areas which may lie more than one-quarter mile from the ordinary high water mark on each side of the river.

Study rivers.

SECTION 5. (a) The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

(1) **Allegheny, Pennsylvania.** -- The segment from its mouth to the town of East Brady, Pennsylvania.

- (2) **Bruneau, Idaho.** -- The entire main stem.
- (3) **Buffalo, Tennessee.** -- The entire river.
- (4) **Chattooga, North Carolina, South Carolina, and Georgia.** -- The entire river.
- (5) **Clarion, Pennsylvania.** -- The segment between Ridgway and its confluence with the Allegheny River.
- (6) **Delaware, Pennsylvania and New York.** -- The segment from Hancock, New York, to Matamoras, Pennsylvania.
- (7) **Flathead, Montana.** -- The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence with the South Fork; and the South Fork from its origin to Hungry Horse Reservoir.
- (8) **Gasconade, Missouri.** -- The entire river.
- (9) **Illinois, Oregon.** -- The entire river.
- (10) **Little Beaver, Ohio.** -- The segment of the North and Middle Forks of the Little Beaver River in Columbiana County from a point in the vicinity of Negly and Elkton, Ohio, downstream to a point in the vicinity of East Liverpool, Ohio.
- (11) **Little Miami, Ohio.** -- That segment of the main stem of the river, exclusive of its tributaries, from a point at the Warren-Clermont County line at Loveland, Ohio, upstream to the sources of Little Miami including North Fork.
- (12) **Maumee, Ohio and Indiana.** -- The main stem from Perrysburg, Ohio, to Fort Wayne, Indiana, exclusive of its tributaries in Ohio and inclusive of its tributaries in Indiana.
- (13) **Missouri, Montana.** -- The segment between Fort Benton and Ryan Island.
- (14) **Moyie, Idaho.** -- The segment from the Canadian border to its confluence with the Kootenai River.
- (15) **Obed, Tennessee.** -- The entire river and its tributaries, Clear Creek and Daddys Creek.
- (16) **Penobscot, Maine.** -- Its east and west branches.
- (17) **Pere Marquette, Michigan.** -- The entire river.
- (18) **Pine Creek, Pennsylvania.** -- The segment from Ansonia to Waterville.
- (19) **Priest, Idaho.** -- The entire main stem.
- (20) **Rio Grande, Texas.** -- The portion of the river between the west boundary of Hudspeth County and the east boundary of Terrell County on the United States side of the river: *Provided*, That before undertaking any study of this potential scenic river, the Secretary of the Interior shall determine, through the channels of appropriate executive agencies, that Mexico has no objection to its being included among the studies authorized by this Act.
- (21) **Saint Croix, Minnesota and Wisconsin.** -- The segment between the dam near Taylors Falls and its confluence with the Mississippi River.
- (22) **Saint Joe, Idaho.** -- The entire main stem.
- (23) **Salmon, Idaho.** -- The segment from the town of North Fork to its confluence with the Snake River.
- (24) **Skagit, Washington.** -- The segment from the town of Mount Vernon to and including the mouth of Bacon Creek; the Cascade River between its mouth and the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Suiattle River from its mouth to the Glacier Peak Wilderness Area Boundary at Milk Creek; the Sauk River from its mouth to its junction with Elliot Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the Glacier Peak Wilderness Area boundary.
- (25) **Suwannee, Georgia and Florida.** -- The entire river from its source in the Okefenokee Swamp in Georgia to the gulf and the outlying Ichetucknee Springs, Florida.
- (26) **Upper Iowa, Iowa.** -- The entire river.
- (27) **Youghiogheny, Maryland and Pennsylvania.** -- The segment from Oakland, Maryland, to the Youghiogheny Reservoir, and from the Youghiogheny Dam downstream to the town of Connellsville, Pennsylvania.
- (28) **American, California.** -- The North Fork from the Cedars to the Auburn Reservoir.
- (29) **Au Sable, Michigan.** -- The segment downstream from Foot Dam to Oscoda and upstream

from Loud Reservoir to its source, including its principal tributaries and excluding Mio and Bamfield Reservoirs.

(30) **Big Thompson, Colorado.** -- The segment from its source to the boundary of Rocky Mountain National Park.

(31) **Cache la Poudre, Colorado.** -- Both forks from their sources to their confluence, thence the Cache la Poudre to the eastern boundary of Roosevelt National Forest.

(32) **Cahaba, Alabama.** -- The segment from its junction with United States Highway 31 south of Birmingham downstream to its junction with United States Highway 80 west of Selma.

(33) **Clark's Fork, Wyoming.** -- The segment from the Clark's Fork Canyon to the Crandall Creek Bridge.

(34) **Colorado, Colorado and Utah.** -- The segment from its confluence with the Dolores River, Utah, upstream to a point 19.5 miles from the Utah-Colorado border in Colorado.

(35) **Conejos, Colorado.** -- The three forks from their sources to their confluence, thence the Conejos to its first junction with State Highway 17, excluding Platoro Reservoir.

(36) **Elk, Colorado.** -- The segment from its source to Clark.

(37) **Encampment, Colorado.** -- The Main Fork and West Fork to their confluence, thence the Encampment to the Colorado-Wyoming border, including the tributaries and headwaters.

(38) **Green, Colorado.** -- The entire segment within the State of Colorado.

(39) **Gunnison, Colorado.** -- The segment from the upstream (southern) boundary of the Black Canyon of the Gunnison National Monument to its confluence with the North Fork.

(40) **Illinois, Oklahoma.** -- The segment from Tenkiller Ferry Reservoir upstream to the Arkansas-Oklahoma border, including the Flint and Barren Fork Creeks.

(41) **John Day, Oregon.** -- The main stem from Service Creek Bridge (at river mile 157) downstream to Tumwater Falls (at river mile 10).

(42) **Kettle, Minnesota.** -- The entire segment within the State of Minnesota.

(43) **Los Pinos, Colorado.** -- The segment from its source, including the tributaries and headwaters within the San Juan Primitive Area, to the northern boundary of the Granite Peak Ranch.

(44) **Manistee, Michigan.** -- The entire river from its source to Manistee Lake, including its principal tributaries and excluding Tippy and Hodenpyl Reservoirs.

(45) **Nolichucky, Tennessee and North Carolina.** -- The entire main stem.

(46) **Owyhee, South Fork, Oregon.** -- The main stem from the Oregon-Idaho border downstream to the Owyhee Reservoir.

(47) **Piedra, Colorado.** -- The Middle Fork and East Fork from their sources to their confluence, thence the Piedra to its junction with Colorado Highway 160.

(48) **Shepaug, Connecticut.** -- The entire river.

(49) **Sipsey Fork, West Fork, Alabama.** -- The segment, including its tributaries, from the impoundment formed by the Lewis M. Smith Dam upstream to its source in the William B. Bankhead National Forest.

(50) **Snake, Wyoming.** -- The segment from the southern boundaries of Teton National Park to the entrance to Palisades Reservoir.

(51) **Sweetwater, Wyoming.** -- The segment from Wilson Bar downstream to Spring Creek.

(52) **Tuolumne, California.** -- The main river from its source on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir.

(53) **Upper Mississippi, Minnesota.** -- The segment from its source at the outlet of Itasca Lake to its junction with the northwestern boundary of the city of Anoka.

(54) **Wisconsin, Wisconsin.** -- The segment from Prairie du Sac to its confluence with the Mississippi River at Prairie du Chien.

(55) **Yampa, Colorado.** -- The segment within the boundaries of the Dinosaur National Monument.

(56) **Dolores, Colorado.** -- The segment of the main stem from Rico upstream to its source, including its headwaters; the West Dolores from its source, including its headwaters, downstream to its confluence with the main stem; and the segment from the west boundary, section 2, township 38 north, range 16 west, NMPM, below the proposed McPhee Dam, downstream to the Colorado-Utah border,

excluding the segment from one mile above Highway 90 to the confluence of the San Miguel River.

(57) **Snake, Washington, Oregon, and Idaho.** -- The segment from an eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette meridian, downstream to the town of Asotin, Washington.

(58) **Housatonic, Connecticut.** -- The segment from the Massachusetts-Connecticut boundary downstream to its confluence with the Shepaug River.

(59) **Kern, California.** -- The main stem of the North Fork from its source to Isabella Reservoir excluding its tributaries.

(60) **Loxahatchee, Florida.** -- The entire river including its tributary, North Fork.

(61) **Ogeechee, Georgia.** -- The entire river.

(62) **Salt, Arizona.** -- The main stem from a point on the north side of the river intersected by the Fort Apache Indian Reservation boundary (north of Buck Mountain) downstream to Arizona State Highway 288.

(63) **Verde, Arizona.** -- The main stem from the Prescott National Forest boundary near Paulden to the vicinity of Table Mountain, approximately 14 miles above Horseshoe Reservoir, except for the segment not included in the national forest between Clarkdale and Camp Verde, North segment.

(64) **San Francisco, Arizona.** -- The main stem from [its] confluence with the Gila upstream to the Arizona-New Mexico border, except for the segment between Clifton and the Apache National Forest.

(65) **Fish Creek, New York.** -- The entire East Branch.

(66) **Black Creek, Mississippi.** -- The segment from Big Creek Landing in Forest County downstream to Old Alexander Bridge Landing in Stone County.

(67) **Allegheny, Pennsylvania.** -- The main stem from Kinzua Dam downstream to East Brady.

(68) **Capacon, West Virginia.** -- The entire river.

(69) **Escatawpa, Alabama and Mississippi.** -- The segment upstream from a point approximately one mile downstream from the confluence of the Escatawpa River and Jackson Creek to a point where the Escatawpa River is joined by the Yellowhouse Branch in Washington County, Alabama, near the town of Deer Park, Alabama; and the segment of Brushy Creek upstream from its confluence with the Escatawpa to its confluence with Scarsborough Creek.

(70) **Myakka, Florida.** -- The segment south of the southern boundary of the Myakka River State Park.

(71) **Soldier Creek, Alabama.** -- The segment beginning at the point where Soldier Creek intersects the south line of section 31, township 7 south, range 6 east, downstream to a point on the south line of section 6, township 8 south, range 6 east, which point is 1,322 feet west of the south line of section 5, township 8 south, range 6 east in the county of Baldwin, State of Alabama.

(72) **Red, Kentucky.** -- The segment from Highway numbered 746 (also known as Spradlin Bridge) in Wolf County, Kentucky, downstream to the point where the river descends below seven hundred feet above sea level (in its normal flow) which point is at the Menifee and Powell County line just downstream of the iron bridge where Kentucky Highway numbered 77 passes over the river.

(73) **Bluestone, West Virginia.** -- From its headwaters to its confluence with the New.

(74) **Gauley, West Virginia.** -- Including the tributaries of the Meadow and the Cranberry, from the headwaters to its confluence with the New.

(75) **Greenbrier, West Virginia.** -- From its headwaters to its confluence with the New.

(76) **Birch, West Virginia.** -- The main stem from the Cora Brown Bridge in Nicholas County to the confluence of the river with the Elk River in Braxton County.

(77) **Colville, Alaska.**

(78) **Etivluk-Nigu, Alaska.**

(79) **Utukok, Alaska.**

(80) **Kanektok, Alaska.**

(81) **Kisaralik, Alaska.**

(82) **Melozitna, Alaska.**

(83) **Sheenjok (lower segment), Alaska.**

(84) **Situk, Alaska.**

(85) **Porcupine, Alaska.**

(86) **Yukon (Ramparts section), Alaska.**

(87) **Squirrel, Alaska.**

(88) **Koyuk, Alaska.**

(89) **Wildcat Brook, New Hampshire.** -- The segment from its headwaters including the principal tributaries to its confluence with the Ellis River. The study authorized in this paragraph shall be completed no later than six years from the date of enactment of this paragraph [June 19, 1984] and an interim report shall be prepared and submitted to the Congress no later than three years from the date of enactment of this paragraph.

(90) **Horsepasture, North Carolina.** -- The segment from Bohaynee Road (N.C. 281) downstream to Lake Jocassee.

(91) **North Umpqua, Oregon.** -- The segment from the Soda Springs Powerhouse to the confluence of Rock Creek. The provisions of section 7(a) shall apply to tributary Steamboat Creek in the same manner as such provisions apply to the rivers referred to in such section 7(a). The Secretary of Agriculture shall, in the Umpqua National Forest plan, provide that management practices for Steamboat Creek and its immediate environment conserve, protect, and enhance the anadromous fish habitat and population.

(92) **Farmington, West Branch, Connecticut and Massachusetts.**²⁵ -- The segment from the intersection of the New Hartford-Canton, Connecticut, town line upstream to the base of the West Branch Reservoir in Hartland, Connecticut; and the segment from the confluence with Thorp Brook in Sandisfield, Massachusetts, to Hayden Pond in Otis Massachusetts.

(93) **Great Egg Harbor River, New Jersey.** -- The entire river.

(94) **Klickitat, Washington.** -- The segment from the southern boundary of the Yakima Indian Reservation, Washington, as described in the Treaty with the Yakimas of 1855 (12 Stat. 951), and as acknowledged by the Indian Claims Commission in *Yakima Tribe of Indians v. U.S.*, 16 Ind. Cl. Comm. 536 (1966), to its confluence with the Little Klickitat River, Washington: *Provided*, That said study shall be carried on in consultation with the Yakima Indian Nation and shall include a determination of the degree to which the Yakima Indian Nation should participate in the preservation and administration of the river segment should it be proposed for inclusion in the Wild and Scenic Rivers System.

(95) **White Salmon, Washington.** -- The segment from its confluence with Trout Lake Creek, Washington, to its confluence with Gilmer Creek, Washington, near the town of B Z Corner, Washington.

(96) **Maurice, New Jersey.** -- The segment from Shell Pile to the point three miles north of Laurel Lake.

(97) **Manumuskin, New Jersey.** -- The segment from its confluence with the Maurice River to the crossing of State Route 49.

(98) **Menantico Creek, New Jersey.** -- The segment from its confluence with the Maurice River to its source.

(99) **Merced, California.** -- The segment from a point 300 feet upstream of the confluence with Bear Creek downstream to the point of maximum flood control storage of Lake McClure (elevation 867 feet mean sea level).

(100) **Blue, Oregon.** -- The segment from its headwaters to the Blue River Reservoir; by the Secretary of Agriculture.

(101) **Chewaucan, Oregon.** -- The segment from its headwaters to the Paisley Urban Growth boundary to be studied in cooperation with, and integrated with, the Klamath River Basin Plan; by the Secretary of Agriculture.

(102) **North Fork Malheur, Oregon.** -- The segment from the Malheur National Forest boundary to Beulah Reservoir; by the Secretary of the Interior.

(103) **South Fork McKenzie, Oregon.** -- The segments from its headwaters to the upper end of Cougar Reservoir and from the lower end of Cougar Reservoir to its confluence with the McKenzie River; by the Secretary of Agriculture.

(104) **Steamboat Creek, Oregon.** -- The entire creek; by the Secretary of Agriculture.

(105) **Wallowa, Oregon.** -- The segment from its confluence with the Minam River to its confluence with the Grande Ronde River; by the Secretary of Agriculture.

(106) **Merrimack River, New Hampshire.** -- The segment from its origin at the confluence of the Pemigewasset and Winnepesaukee Rivers in Franklin, New Hampshire, to the backwater impoundment at Hooksett Dam, excluding Garvins Falls Dam and its impoundment.

(107) **Pemigewasset, New Hampshire.** -- The segments from Profile Lake downstream to the southern boundary of the Franconia Notch State Park and from the northern Thornton town-line downstream to the backwater of the Ayers Island Dam; by the Secretary of the Interior.²⁶

(106) **St. Marys River, Florida and Georgia.**²⁷ -- The segment from its headwaters to its confluence with the Bells River.

(109) **Mills River, North Carolina.**²⁸ -- The North Fork from the bottom of the spillway of the Hendersonville Reservoir downstream to its confluence with the South Fork; the South Fork from its confluence with the Pigeon Branch downstream to its confluence with the North Fork; and the main stem from the confluence of the North and South Forks downstream to a point 750 feet upstream from the centerline of North Carolina Highway 191/280.

(110) **Sudbury, Assabet, and Concord, Massachusetts.**²⁹ -- The segment of the Sudbury from the Danforth Street Bridge in the town of Framingham, to its confluence with the Assabet, the Assabet from 1,000 feet downstream of the Damon Mill Dam in Concord, to its confluence with the Sudbury and the Concord from the confluence of the Sudbury and Assabet downstream to the Route 3 Bridge in the town of Billerica. The study of such river segments shall be completed and the report submitted thereon not later than at the end of the third fiscal year beginning after the date of enactment of this paragraph.

(111) **Niobrara, Nebraska.** -- The 6-mile segment of the river from its confluence with Chimney Creek to its confluence with Rock Creek.³⁰

(112) **Lamprey, New Hampshire.** -- The segment from the southern Lee town line downstream to the confluence with Woodman's Brook at the base of Sullivan Falls in Durham.

(112) **White Clay Creek, Delaware and Pennsylvania.**³¹ -- The headwaters of the river in Pennsylvania to its confluence with the Christina River in Delaware, including the East, West, and Middle Branches, Middle Run, Pike Creek, Mill Creek, and other main branches and tributaries as determined by the Secretary of the Interior (herein after [sic] referred to as the White Clay Creek).

(114) **Brule, Michigan and Wisconsin.** -- The 33-mile segment from Brule Lake in the northeast quarter of section 15, township 41 north, range 13 east, to the National Forest boundary at the southeast quarter of section 31, township 41 north, range 17 east.³²

(115) **Carp, Michigan.** -- The 7.6-mile segment from its origin at the confluence of the outlets of Frenchman Lake and Carp Lake in section 26, township 44 north, range 6 west, to the west section line of section 30, township 43 north, range 5 west.

(116) **Little Manistee, Michigan.** -- The 42-mile segment within the Huron-Manistee National Forest.

(117) **White, Michigan.** -- The 75.4-mile segment within the Huron-Manistee National Forest as follows: (A) The 30.8-mile segment of the main stem from U.S. 31 to the Huron-Manistee National Forest boundary at the north line of section 2, township 13 north, range 15 west, 1.5 miles southwest of Hesperia; (B) the 18.9-mile segment of the South Branch White from the Huron-Manistee National Forest boundary east of Hesperia at the west line of section 22, township 14 north, range 14 west, to Echo Drive, section 6, township 13 north, range 12 west; (C) the 25.7-mile segment of the North Branch White from its confluence with the South Branch White in section 25, township 13 north, range 16 west, to McLaren Lake in section 11, township 14 north, range 15 west.

(118) **Ontonagon, Michigan.** -- The 32-mile segment of the Ontonagon as follows: (A) The 12-mile segment of the West Branch from the Michigan State Highway 28 crossing to Cascade Falls; (B) the 20-mile segment of the South Branch from the confluence of the Cisco Branch and Tenmile Creek to the confluence with the West Branch Ontonagon.

(119) **Paint, Michigan.** -- The 70-mile segment as follows: (A) 34 miles of the mainstream beginning at the eastern boundary of the Ottawa National Forest in section 1, township 44 north, range 35 west, to the city of Crystal Falls; (B) 15 miles of the mainstream of the Net River from its confluence with the east and west branches to its confluence with the mainstream of the Paint River; (C) 15 miles of the east branch of the

Net River from its source in section 8, township 47 north, range 32 west, to its confluence with the mainstream of the Net River in section 24, township 46 north, range 34 west; (D) 14 miles of the west branch of the Net River from its source in section 35, township 48 north, range 34 west, to its confluence with the mainstream of the Net River in section 24, township 46 north, range 34 west.

(120) **Presque Isle, Michigan.** -- The 13-mile segment of the mainstream from Minnewawa Falls to Lake Superior.

(121) **Sturgeon, Ottawa National Forest, Michigan.** -- The 36-mile segment of the mainstream from the source at Wagner Lake in section 13, township 49 north, range 31 west, to the eastern boundary of the Ottawa National Forest in section 12, township 48 north, range 35 west.

(122) **Sturgeon, Hiawatha National Forest, Michigan.** -- The 18.1-mile segment from Sixteen Mile Lake to the north line of section 26, township 43 north, range 19 west.

(123) **Tahquamenon, Michigan.** -- The 103.5-mile segment as follows: (A) The 90-mile segment of the mainstream beginning at the source in section 21, township 47 north, range 12 west, to the mouth at Whitefish Bay; and (B) the 13.5-mile segment of the east branch from the western boundary of the Hiawatha National Forest in section 19, township 46 north, range 6 west, to its confluence with the mainstream.

(124) **Whitefish, Michigan.** -- The 26-mile segment of the West Branch Whitefish from its source in section 26, township 46 north, range 23 west, to County Road 444.

(125) **Clarion, Pennsylvania.** -- The segment of the main stem of the river from Ridgway to its confluence with the Allegheny River. The Secretary of Agriculture shall conduct the study of such segment.

(126) **Mill Creek, Jefferson and Clarion Counties, Pennsylvania.** -- The segment of the main stem of the creek from its headwaters near Gumbert Hill in Jefferson County, downstream to the confluence with the Clarion River.

(127) **Piru Creek, California.** -- The segment of the main stem of the Creek from its source downstream to the maximum pool of Pyramid Lake and the segment of the main stem of the Creek beginning 300 feet below the dam at Pyramid Lake downstream to the maximum pool at Lake Piru, for a total distance of approximately 49 miles.³³

(128) **Little Sur River, California.** -- The segment of the main stem of the river from its headwaters downstream to the Pacific Ocean, a distance of approximately 23 miles. The Secretary of Agriculture shall consult with the Big Sur Multiagency Advisory Council during the study of the river.

(129) **Matilija Creek, California.** -- The segment from its headwaters to its junction with Murietta Canyon, a distance of approximately 16 miles.

(130) **Lopez Creek, California.** -- The segments from its headwaters to Lopez Reservoir, a distance of approximately 11 miles.

(131) **Sespe Creek, California.** -- The segment from Chorro Grande Canyon downstream to its confluence with Rock Creek and Howard Creek, a distance of about 10.5 miles.

(132) **North Fork Merced, California.** -- The segment from its headwaters to its confluence with the Merced River, by the Secretary of Agriculture and the Secretary of the Interior.

(133) **Delaware River, Pennsylvania and New Jersey.** -- (A) The approximately 3.6-mile segment from the Erie Lackawanna Railroad Bridge to the southern tip of Dildine Island; (B) the approximately 2-mile segment from the southern tip of Mack Island to the northern border of the town of Belvidere, New Jersey; (C) the approximately 12.5-mile segment from the southern border of the town of Belvidere, New Jersey, to the northern border of the city of Easton, Pennsylvania, excluding river mile 196.0 to 193.8; (D) the approximately 9.5-mile segment from the southern border of the town of Phillipsburg, New Jersey, to a point just north of the Gilbert Generating Station; (E) the approximately 14.2-mile segment from a point just south of the Gilbert Generating Station to a point just north of the Point Pleasant Pumping Station; (F) the approximately 6.5-mile segment from a point just south of the Point Pleasant Pumping Station to the north side of the Route 202 bridge; (G) the approximately 6-mile segment from the southern boundary of the town of New Hope, Pennsylvania to the town of Washington Crossing, Pennsylvania; (H) the Cook's Creek tributary; (I) the Tinicum Creek tributary; (J) the Tohickon Creek tributary.

(134) **New River, West Virginia and Virginia.** -- The segment defined by public lands commencing at the U.S. Route 460 bridge over the New River in Virginia to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake in West Virginia; by the Secretary of the Interior. Nothing in this Act shall affect or impair the management of the Bluestone project or the authority of any department, agency or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. The study of the river segment identified in this paragraph shall be completed and reported on within one year after the date of enactment of this paragraph [October 26, 1992].

(135) **Rio Grande, New Mexico.** -- The segment from the west section line of Section 15, Township 23 North, Range 10 East, downstream approximately 8 miles to the southern line of the northwest quarter of Section 34, Township 23 North, Range 9 East.

() **Wekiva River, Florida.** -- (A) The entire river.

(B) The Seminole Creek tributary.

(C) The Rock Springs Run tributary.

Study periods.

(b)(1) The studies of rivers named in subparagraphs (28) through (55) of subsection (a) of this section shall be completed and reports thereon submitted by not later than October 2, 1979: *Provided*, That with respect to the rivers named in subparagraphs (33), (50), and (51), the Secretaries shall not commence any studies until -- (i) the State legislature has acted with respect to such rivers, or (ii) one year from the date of enactment of this Act [January 3, 1975], whichever is earlier. Studies of the river[s] named in paragraphs (38), (55), (83), and (87) shall be completed and the reports transmitted to the Congress not later than January 1, 1987.

(2) The study of the river named in subparagraph (56) of subsection (a) of this section shall be completed and the report thereon submitted by not later than January 3, 1976.

(3) The studies of the rivers named in paragraphs (59) through (76) of subsection (a) shall be completed and reports submitted thereon not later than five full fiscal years after the date of the enactment of this paragraph [November 10, 1978]. The study of rivers named in paragraphs (62) through (64) of subsection (a) shall be completed and the report thereon submitted by not later than April 1981. The study of the river named in paragraph (90) of subsection (a) shall be completed not later than three years after the date of enactment of this sentence [October 17, 1984]. The study of the river named in paragraph (93) of subsection (a) shall be completed not later than three years after the date of the enactment of this sentence [October 30, 1986].

(4) For the purposes of conducting the studies of rivers named in subsection (a), there are authorized to be appropriated such sums as necessary. Effective October 1, 1986, there are authorized to be appropriated for the purpose of conducting the study of the river named in paragraph (93) not to exceed \$150,000.

(5) The studies of the rivers in paragraphs (77) through (88) shall be completed and reports transmitted thereon not later than three full fiscal years from date of enactment of this paragraph [December 2, 1980]. For the rivers listed in paragraphs (77), (78), and (79) the studies prepared and transmitted to the Congress pursuant to section 105(c) of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258) shall satisfy the requirements of this section.

(6) Studies of rivers listed in paragraphs (80) and (81) shall be completed, and reports submitted within and not later than the time when the Bristol Bay Cooperative Region Plan is submitted to Congress in accordance with section 120434 of the Alaska National Interest Lands Conservation Act.

(7) The study of the West Branch of the Farmington River identified in paragraph (92) of subsection (a) shall be completed and the report submitted thereon not later than the end of the third fiscal year beginning after the enactment of this paragraph [October 30, 1986]. Such report shall include a discussion of management alternatives for the river if it were to be included in the national wild and scenic river system.

(8) The study of the Merrimack River, New Hampshire, shall be completed and the report thereon submitted not later than three years after the date of enactment of this paragraph [August 10, 1990].

(9) The study of the Pemigewasset River, New Hampshire, shall be completed and the report thereon submitted not later than three years after the date of enactment of this paragraph [August 10, 1990].

(8)³⁵ The study of the river named in paragraph (106)27 of subsection (a) shall be completed no later than three years after the date of enactment of this paragraph [August 15, 1990]. In carrying out the study, the Secretary of the Interior shall consult with the Governors of the States of Florida and Georgia or their representatives, representatives of affected local governments, and owners of land adjacent to the river. Such consultation shall include participation in the assessment of resources values, and the development of alternatives for the protection of these resource values, and shall be carried out through public meetings and media notification. The study shall also include a recommendation on the part of the Secretary as to the role the States, local governments and landowners should play in the management of the river if it were designated as a component of the national wild and scenic rivers system.

(11) The study of the Lamprey River, New Hampshire shall be completed by the Secretary of the Interior and the report thereon submitted not later than 3 years after the date of enactment of this paragraph [December 11, 1991].

(11)(A)³⁶ The study of the White Clay Creek in Delaware and Pennsylvania shall be completed and the report submitted not later than 3 years after the date of enactment of this paragraph [December 11, 1991].

(B) In carrying out the study, the Secretary of the Interior shall prepare a map of the White Clay Creek watershed in Delaware and Pennsylvania, and shall develop a recommended management plan for the White Clay Creek. The plan shall provide recommendations as to the protection and management of the White Clay Creek, including the role the State and local governments, and affected landowners, should play in the management of the White Clay Creek if it designated as a component of the national wild and scenic rivers system.

(C) The Secretary shall prepare the study, including the recommended management plan, in cooperation and consultation with appropriate State and local governments, and affected landowners.

(11)³⁷ The study of segments of the Brule, Carp, Little Manistee, White, Paint, Presque Isle, Ontonagon, Sturgeon (Hiawatha), Sturgeon (Ottawa), Whitefish, and Tahquamenon Rivers in Michigan under subsection (a) shall be completed by the Secretary of Agriculture and the report submitted thereon not later than at the end of the third fiscal year beginning after the date of enactment of this paragraph [March 3, 1992]. For purposes of such river studies, the Secretary shall consult with each River Study Committee authorized under section 5 of the Michigan Scenic Rivers Act of 1990, and shall encourage public participation and involvement through hearings, workshops, and such other means as are necessary to be effective.

(11)(A)³⁸ The study of the Delaware River segments and tributaries designated for potential addition to the national wild and scenic rivers system pursuant to section 5(a)(133) of this Act shall be completed and the report submitted to Congress not later than one year after the date of enactment of this paragraph [October 23, 1992].

(B) The Secretary shall -- (i) prepare the study in cooperation and consultation with appropriate Federal, State, regional, and local agencies, including but not limited to, the Pennsylvania Department of Environmental Resources, the New Jersey Department of Environmental Protection and Energy, the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission and the Delaware and Raritan Canal Commission; and (ii) consider previous plans for the protection of affected cultural, recreational, and natural resources (including water supply and water quality) and existing State and local regulations, so as to avoid unnecessary duplication.

(C) Pursuant to section 11(b)(1) of this Act, the Secretary shall undertake a river conservation plan for the segment of the Delaware River from the northern city limits of Trenton, New Jersey, to the Southern boundary of Bucks County, Pennsylvania.

(12) The study of the Rio Grande in New Mexico shall be completed and the report submitted not later than 3 years after the date of enactment of the paragraph.

Additional study requirements.

(c) The study of any of said rivers shall be pursued in as close cooperation with appropriate agencies of the affected State and its political subdivisions as possible, shall be carried on jointly with such agencies if request for such joint study is made by the State, and shall include a determination of the degree to which the State or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

Federal agency consideration of wild and scenic values.

(d)(1) In all planning for the use and development of water and related land resources, consideration shall be given by all Federal agencies involved to potential national wild, scenic and recreational river areas, and all river basin and project plan reports submitted to the Congress shall consider and discuss any such potentials. The Secretary of the Interior and the Secretary of Agriculture shall make specific studies and investigations to determine which additional wild, scenic and recreational river areas within the United States shall be evaluated in planning reports by all Federal agencies as potential alternative uses of the water and related land resources involved.

(2) The Congress finds that the Secretary of the Interior, in preparing the Nationwide Rivers Inventory as a specific study for possible additions to the national wild and scenic rivers system, identified the Upper Klamath River from below the John Boyle Dam to the Oregon-California State line. The Secretary, acting through the Bureau of Land Management, is authorized under this subsection to complete a study of the eligibility and suitability of such segment for potential addition to the national wild and scenic rivers system. Such study shall be completed, and a report containing the results of the study shall be submitted to Congress by April 1, 1990. Nothing in this paragraph shall affect the authority or responsibilities of any other Federal agency with respect to activities or action on this segment and its immediate environment.

Acquisition procedures and limitations.

SECTION 6. (a)(1) The Secretary of the Interior and the Secretary of Agriculture are each authorized to acquire lands and interests in land within the authorized boundaries of any component of the national wild and scenic rivers system designated in section 3 of this Act, or hereafter designated for inclusion in the system by Act of Congress, which is administered by him, but he shall not acquire fee title to an average of more than 100 acres per mile on both sides of the river. Lands owned by a State may be acquired only by donation or by exchange in accordance with the subsection (d) of this section. Lands owned by an Indian tribe or a political subdivision of a State may not be acquired without the consent of the appropriate governing body thereof as long as the Indian tribe or political subdivision is following a plan for management and protection of the lands which the Secretary finds protects the land and assures its use for purposes consistent with this Act. Money appropriated for Federal purposes from the land and water conservation fund shall, without prejudice to the use of appropriations from other sources, be available to Federal departments and agencies for the acquisition of property for the purposes of this Act.

Federal agency consideration of wild and scenic values.

(2) When a tract of land lies partially within and partially outside the boundaries of a component of the national wild and scenic rivers system, the appropriate Secretary may, with the consent of the landowners for the portion outside the boundaries, acquire the entire tract. The land or interest therein so acquired outside the boundaries shall not be counted against the average one-hundred-acre-per-mile fee title limitation of subsection (a)(1). The lands or interests therein outside such boundaries, shall be disposed of, consistent with existing authorities of law, by sale, lease, or exchange.

(b) If 50 per centum or more of the entire acreage outside the ordinary high water mark on both sides of the river within a federally administered wild, scenic or recreational river area is owned in fee title by the

United States, by the State or States within which it lies, or by political subdivisions of those States, neither Secretary shall acquire fee title to any lands by condemnation under authority of this Act. Nothing contained in this section, however, shall preclude the use of condemnation when necessary to clear title or to acquire scenic easements or such other easements as are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or of selected segments thereof.

(c) Neither the Secretary of the Interior nor the Secretary of Agriculture may acquire lands by condemnation, for the purpose of including such lands in any national wild, scenic or recreational river area, if such lands are located within any incorporated city, village or borough which has in force and applicable to such lands a duly adopted, valid zoning ordinance that conforms with the purposes of this Act. In order to carry out the provisions of this subsection the appropriate Secretary shall issue guidelines, specifying standards for local zoning ordinances, which are consistent with the purposes of this Act. The standards specified in such guidelines shall have the object of (A) prohibiting new commercial or industrial uses other than commercial or industrial uses which are consistent with the purposes of this Act, and (B) the protection of the bank lands by means of acreage, frontage, and setback requirements on development.

(d) The appropriate Secretary is authorized to accept title to non-Federal property within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 3 of this Act or hereafter designated for inclusion in the system by Act of Congress and, in exchange therefor, convey to the grantor any federally owned property which is under his jurisdiction within the State in which the component lies and which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal or, if they are not approximately equal, shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(e) The head of any Federal department or agency having administrative jurisdiction over any lands or interests in land within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 3 of this Act or hereafter designated for inclusion in the system by Act of Congress is authorized to transfer to the appropriate Secretary jurisdiction over such lands for administration in accordance with the provisions of this Act. Lands acquired by or transferred to the Secretary of Agriculture for the purposes of this Act within or adjacent to a national forest shall upon such acquisition or transfer become national forest lands.

(f) The appropriate Secretary is authorized to accept donations of lands and interests in land, funds, and other property for use in connection with his administration of the national wild and scenic rivers system.

(g)(1) Any owner or owners (hereinafter in this subsection referred to as "owner") of improved property on the date of its acquisition, may retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years, or in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, or the death of either or both of them. The owner shall elect the term to be reserved. The appropriate Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such a date of the right retained by the owner.

whenever the appropriate Secretary is given reasonable cause to find that such use and occupancy is being exercised in a manner which conflicts with the purposes of this Act. In the event of such a finding, the Secretary shall tender to the holder of that right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination. Such right of use or occupancy shall terminate by operation of law upon tender of the fair market price.

(3) The term "improved property", as used in this Act, means a detached, one-family dwelling (hereinafter referred to as "dwelling"), the construction of which was begun before January 1, 1967, (except where a different date is specifically provided by law with respect to any particular river), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the appropriate Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

Restrictions on hydro and water resource development projects on designated rivers.

SECTION 7. (a) The Federal Power Commission [FERC] shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 3 of this Act as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of designation of a river as a component of the national wild and scenic rivers system. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act. Any license heretofore or hereafter issued by the Federal Power Commission [FERC] affecting the New River of North Carolina shall continue to be effective only for that portion of the river which is not included in the national wild and scenic rivers system pursuant to section 2 of this Act and no project or undertaking so licensed shall be permitted to invade, inundate or otherwise adversely affect such river segment.

Restrictions on hydro and water resource development projects on study rivers.

(b) The Federal Power Commission [FERC] shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended, on or directly affecting any river which is listed in section 5, subsection (a), of this Act, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval -- (i) during the ten-year period following enactment of this Act [October 2, 1968] or for a three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic rivers system, whichever is later, unless, prior to the expiration of the relevant period, the Secretary of the Interior and where national forest lands are involved, the Secretary of Agriculture, on the basis of study, determine that such river should not be included in the national wild and scenic rivers system and notify the Committees on Interior and Insular Affairs of the United States Congress, in writing, including a copy of the study upon which the determination was made, at least one hundred and eighty days while Congress is in session prior to publishing notice to that effect in the *Federal Register*. *Provided*, That if any Act designating any river or rivers for potential addition to the national wild and scenic rivers system provides a period for the study or studies which exceeds such three complete fiscal year period the period provided for in such Act shall be substituted for the three complete fiscal year period in the provisions of this clause (i); and (ii) during such interim period from the date a report is due and the time a report is actually submitted to the Congress; and (iii) during such additional period thereafter as, in the case of any river the report for which is submitted to the President and the Congress for inclusion in the national wild and scenic rivers system, is necessary for congressional consideration thereof or, in the case of any river recommended to the Secretary of the Interior for inclusion in the national wild and scenic rivers system under section 2(a)(ii) of this Act, is necessary for the Secretary's consideration thereof, which additional period, however, shall not

exceed three years in the first case and one year in the second.

Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a potential wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or diminish the scenic, recreational, and fish and wildlife values present in the potential wild, scenic or recreational river area on the date of designation of a river for study as provided in section 5 of this Act. No department or agency of the United States shall, during the periods hereinbefore specified, recommend authorization of any water resources project on any such river or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture in writing of its intention so to do at least sixty days in advance of doing so and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act.

(c) The Federal Power Commission [FERC] and all other Federal agencies shall, promptly upon enactment of this Act, inform the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, of any proceedings, studies, or other activities within their jurisdiction which are now in progress and which affect or may affect any of the rivers specified in section 5, subsection (a), of this Act. They shall likewise inform him of any such proceedings, studies, or other activities which are hereafter commenced or resumed before they are commenced or resumed.

Grants under Land and Water Conservation Fund Act of 1965.

(d) Nothing in this section with respect to the making of a loan or grant shall apply to grants made under the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-5 et seq.).

Limitations to entry on public lands.

(a) Designated rivers.

SECTION 8. (a) All public lands within the authorized boundaries of any component of the national wild and scenic rivers system which is designated in section 3 of this Act or which is hereafter designated for inclusion in that system are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States. This subsection shall not be construed to limit the authorities granted in section 6(d) or section 14A of this Act.

(b) Study rivers.

(b) All public lands which constitute the bed or bank, or are within one-quarter mile of the bank, of any river which is listed in section 5, subsection (a), of this Act are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section 7, subsection (b), of this Act. Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, subject only to valid existing rights, including valid Native selection rights under the Alaska Native Claims Settlement Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5(a) are hereby withdrawn from entry, sale, State selection or other disposition under the public land laws of the United States for the periods specified in section 7(b) of this Act.

Limitations on mineral entry and development on Public Lands; designated rivers.

SECTION 9. (a) Nothing in this Act shall affect the applicability of the United States mining and mineral leasing laws within components of the national wild and scenic rivers system except that -- (i) all prospecting, mining operations, and other activities on mining claims which, in the case of a component of

the system designated in section 3 of this Act, have not heretofore been perfected or which, in the case of a component hereafter designated pursuant to this Act or any other Act of Congress, are not perfected before its inclusion in the system and all mining operations and other activities under a mineral lease, license, or permit issued or renewed after inclusion of a component in the system shall be subject to such regulations as the Secretary of the Interior or, in the case of national forest lands, the Secretary of Agriculture may prescribe to effectuate the purposes of this Act; (ii) subject to valid existing rights, the perfection of, or issuance of a patent to, any mining claim affecting lands within the system shall confer or convey a right or title only to the mineral deposits and such rights only to the use of the surface and the surface resources as are reasonably required to carrying on prospecting or mining operations and are consistent with such regulations as may be prescribed by the Secretary of the Interior, or in the case of national forest lands, by the Secretary of Agriculture; and (iii) subject to valid existing rights, the minerals in Federal lands which are part of the system and constitute the bed or bank or are situated within one-quarter mile of the bank of any river designated a wild river under this Act or any subsequent Act are hereby withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto. Regulations issued pursuant to paragraphs (i) and (ii) of this subsection shall, among other things, provide safeguards against pollution of the river involved and unnecessary impairment of the scenery within the component in question.

Study rivers.

(b) The minerals in any Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank of any river which is listed in section 5, subsection (a) of this Act are hereby withdrawn from all forms of appropriation under the mining laws during the periods specified in section 7, subsection (b) of this Act. Nothing contained in this subsection shall be construed to forbid prospecting or the issuance of leases, licenses, and permits under the mineral leasing laws subject to such conditions as the Secretary of the Interior and, in the case of national forest lands, the Secretary of Agriculture find appropriate to safeguard the area in the event it is subsequently included in the system. Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5(a), are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 7(b) of this Act.

Management direction.

SECTION 10. (a) Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its aesthetic, scenic, historic, archaeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the area.

(b) Any portion of a component of the national wild and scenic rivers system that is within the national wilderness preservation system, as established by or pursuant to the Act of September 3, 1964 (78 Stat. 890; 16 U.S.C., ch. 23),³⁹ shall be subject to the provisions of both the Wilderness Act and this Act with respect to preservation of such river and its immediate environment, and in case of conflict between the provisions of these Acts the more restrictive provisions shall apply.

(c) Any component of the national wild and scenic rivers system that is administered by the Secretary of the Interior through the National Park Service shall become a part of the national park system, and any such component that is administered by the Secretary through the Fish and Wildlife Service shall become a part of the national wildlife refuge system. The lands involved shall be subject to the provisions of this Act

and the Acts under which the national park system or national wildlife refuge system, as the case may be, is administered, and in case of conflict between the provisions of these Acts, the more restrictive provisions shall apply. The Secretary of the Interior, in his administration of any component of the national wild and scenic rivers system, may utilize such general statutory authorities relating to areas of the national park system and such general statutory authorities otherwise available to him for recreation and preservation purposes and for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this Act.

(d) The Secretary of Agriculture, in his administration of any component of the national wild and scenic rivers system area, may utilize the general statutory authorities relating to the national forests in such manner as he deems appropriate to carry out the purposes of this Act.

(e) The Federal agency charged with the administration of any component of the national wild and scenic rivers system may enter into written cooperative agreements with the Governor of a State, the head of any State agency, or the appropriate official of a political subdivision of a State for State or local governmental participation in the administration of the component. The States and their political subdivisions shall be encouraged to cooperate in the planning and administration of components of the system which include or adjoin State- or county-owned lands.

Federal assistance to others; cooperation; use of volunteers.

SECTION 11. (a) The Secretary of the Interior shall encourage and assist the States to consider, in formulating and carrying out their comprehensive statewide outdoor recreation plans and proposals for financing assistance for State and local projects submitted pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), needs and opportunities for establishing State and local wild, scenic and recreational river areas.

(b)(1) The Secretary of the Interior, the Secretary of Agriculture, or the head of any other Federal agency, shall assist, advise, and cooperate with States or their political subdivisions, landowners, private organizations, or individuals to plan, protect, and manage river resources. Such assistance, advice and cooperation may be through written agreements or otherwise. This authority applies within or outside a federally administered area and applies to rivers which are components of the national wild and scenic rivers system and to other rivers. Any agreement under this subsection may include provisions for limited financial or other assistance to encourage participation in the acquisition, protection, and management of river resources.

(2) Wherever appropriate in furtherance of this Act, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to utilize the following:

(A) For activities on federally owned land, the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g-j) and the Volunteers in the Forest Act of 1972 (16 U.S.C. 558a-558d).

(B) For activities on all other lands, section 6 of the Land and Water Conservation Fund Act of 1965 (relating to the development of statewide comprehensive outdoor recreation plans).

(3) For purposes of this subsection, the appropriate Secretary or the head of any Federal agency may utilize and make available Federal facilities, equipment, tools and technical assistance to volunteers and volunteer organizations, subject to such limitations and restrictions as the appropriate Secretary or the head of any Federal agency deems necessary or desirable.

(4) No permit or other authorization provided for under provision of any other Federal law shall be conditioned on the existence of any agreement provided for in this section.

Management policies

SECTION 12. (a) The Secretary of the Interior, the Secretary of Agriculture, and the head of any other Federal department or agency having jurisdiction over any lands which include, border upon, or are adjacent to, any river included within the National Wild and Scenic Rivers System or under consideration for such inclusion, in accordance with section 2(a)(ii), 3(a), or 5(a), shall take such action respecting management policies, regulations, contracts, plans, affecting such lands, following November 10, 1978, as

may be necessary to protect such rivers in accordance with the purposes of this Act. Such Secretary or other department or agency head shall, where appropriate, enter into written cooperative agreements with the appropriate State or local official for the planning, administration, and management of Federal lands which are within the boundaries of any rivers for which approval has been granted under section 2(a)(ii). Particular attention shall be given to scheduled timber harvesting, road construction, and similar activities which might be contrary to the purposes of this Act.

(b) Nothing in this section shall be construed to abrogate any existing rights, privileges, or contracts affecting Federal lands held by any private party without the consent of said party.

(c) The head of any agency administering a component of the national wild and scenic rivers system shall cooperate with the Administrator, Environmental Protection Agency and with the appropriate State water pollution control agencies for the purpose of eliminating or diminishing the pollution of waters of the river.

Reservation of State and Federal jurisdiction and responsibilities; access to and across wild and scenic rivers.

SECTION 13. (a) Nothing in this Act shall affect the jurisdiction or responsibilities of the States with respect to fish and wildlife. Hunting and fishing shall be permitted on lands and waters administered as parts of the system under applicable State and Federal laws and regulations unless, in the case of hunting, those lands or waters are within a national park or monument. The administering Secretary may, however, designate zones where, and establish periods when, no hunting is permitted for reasons of public safety, administration, or public use and enjoyment and shall issue appropriate regulations after consultation with the wildlife agency of the State or States affected.

(b) The jurisdiction of the States and the United States over waters of any stream included in the national wild, scenic or recreational river area shall be determined by established principles of law. Under the provisions of this Act, any taking by the United States of a water right which is vested under either State or Federal law at the time such river is included in the national wild and scenic rivers system shall entitle the owner thereof to just compensation. Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(c) Designation of any stream or portion thereof as a national wild, scenic or recreational river area shall not be construed as a reservation of the waters of such streams for purposes other than those specified in this Act, or in quantities greater than necessary to accomplish these purposes.

(d) The jurisdiction of the States over waters of any stream included in a national wild, scenic or recreational river area shall be unaffected by this Act to the extent that such jurisdiction may be exercised without impairing the purposes of this Act or its administration.

(e) Nothing contained in this Act shall be construed to alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States which contain any portion of the national wild and scenic rivers system.

(f) Nothing in this Act shall affect existing rights of any State, including the right of access, with respect to the beds of navigable streams, tributaries, or rivers (or segments thereof) located in a national wild, scenic

(g) The Secretary of the Interior or the Secretary of Agriculture, as the case may be, may grant easements and rights-of-way upon, over, under, across, or through any component of the national wild and scenic rivers system in accordance with the laws applicable to the national park system and the national forest system, respectively: *Provided*, That any conditions precedent to granting such easements and rights-of-way shall be related to the policy and purpose of this Act.

Land donations.

SECTION 14. The claim and allowance of the value of an easement as a charitable contribution under section 170 of title 26, United States Code, or as a gift under section 2522 of said title shall constitute an agreement by the donor on behalf of himself, his heirs, and assigns that, if the terms of the instrument creating the easement are violated, the donee or the United States may acquire the servient estate at its fair market value as of the time the easement was donated minus the value of the easement claimed and allowed

as a charitable contribution or gift.

Lease of Federal lands.

SECTION 14A. (a) Where appropriate in the discretion of the Secretary, he may lease federally owned land (or any interest therein) which is within the boundaries of any component of the national wild and scenic rivers system and which has been acquired by the Secretary under this Act. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act.

(b) Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land immediately before its acquisition by the United States.

Exceptions for Alaska.

SECTION 15. Notwithstanding any other provision to the contrary in sections 3 and 9 of this Act, with respect to components of the national wild and scenic rivers system in Alaska designated by paragraphs (38) through (50) of section 3(a) of this Act -- (1) the boundary of each such river shall include an average of not more than six hundred and forty acres per mile on both sides of the river. Such boundary shall not include any lands owned by the State or a political subdivision of the State nor shall such boundary extend around any private lands adjoining the river in such manner as to surround or effectively surround such private lands; and (2) the withdrawal made by paragraph (iii) of section 9(a) shall apply to the minerals in Federal lands which constitute the bed or bank or are situated within one-half mile of the bank of any river designated a wild river by the Alaska National Interest Lands Conservation Act.

Definitions.

SECTION 16. As used in this Act, the term --

(a) "River" means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.

(b) "Free-flowing", as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: *Provided*, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the national wild and scenic rivers system.

(c) "Scenic easement" means the right to control the use of land (including the air space above such land) within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement. For any designated wild and scenic river, the appropriate Secretary shall treat the acquisition of fee title with the reservation of regular existing uses to the owner as a scenic easement for purposes of this Act. Such an acquisition shall not constitute fee title ownership for purposes of section 6(b).

Authorization of appropriations for land acquisition.

SECTION 17. There are hereby authorized to be appropriated, including such sums as have heretofore been appropriated, the following amounts for land acquisition for each of the rivers described in section 3(a) of this Act:

- Clearwater, Middle Fork, Idaho, \$2,909,800;
- Eleven Point, Missouri, \$10,407,000;
- Feather, Middle Fork, California, \$3,935,700;
- Rio Grande, New Mexico, \$253,000;

- Rogue, Oregon, \$15,147,000
- St. Croix, Minnesota and Wisconsin, \$21,769,000;
- Salmon, Middle Fork Idaho, \$1,837,000; and
- Wolf Wisconsin, \$142,150.

FOOTNOTES

¹ The Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) as set forth herein consists of Public Law 90-542 (October 2, 1968) and amendments thereto.

^{1a} Public Law 102-220 contains additional provisions.

² Public Law 92-560, which inserted this paragraph, contains additional provisions.

³ Public Law 94-199 added paragraphs 11 and 12. Public Law 94-199 also contains several related provisions.

⁴ For additional provisions of law concerning the Missouri River segment, see Public Law 94-486 (Sec. 202 and Sec. 203).

⁵ The National Parks and Recreation Act of 1978, Public Law 95-625, section 704(b)-(j).

⁶ Section 401(p) of the Act of October 12, 1979 amended section 704(a) of the Act of November 10, 1978 which added this section. That amendment changed the reference here to "section 704(c)."

⁷ Section 9(b) of the Central Idaho Wilderness Act of 1980 (PL 96-312) contains the following provision: (b) That segment of the main Salmon River designated as a component of the Wild and Scenic Rivers System by this Act, which lies within the River of No Return Wilderness or the Gospel-Hump Wilderness designated by Public Law 95-237, shall be managed under the provisions of the Wild and Scenic Rivers Act, as amended, and the regulations promulgated pursuant thereto, notwithstanding section 10(b) of the Wild and Scenic Rivers Act or any provisions of the Wilderness Act to the contrary.

⁸ Public Law 96-487 which designated rivers in Alaska contains many provisions applying only to rivers in that State.

⁹ Title I of Public Law 99-590 contains additional provisions concerning the Cache la Poudre.

¹⁰ Designated as paragraph (57) in original law.

¹¹ Designated as paragraph (58) in original law.

¹² Section 13 of Public Law 99-663, contains additional provisions affecting tributaries.

¹³ Section 3 of Public Law 102-432 which added (62)(B)(i) contains additional provisions.

¹⁴ Title I of Public Law 100-557 which designated rivers (68) through (107) contains additional provisions.

¹⁵ Public Law 100-633, which inserted this paragraph, contains additional provisions.

¹⁶ River #108, Rio Chama, is the last river which has been numbered in section 3(a). The remaining numbers in this section have been assigned in chronological order according to designation and probably will be confirmed by a technical amendment to the Act.

¹⁷ Public Law 102-50 which designated this river contains additional provisions.

¹⁸ Public Law 102-249 which designated rivers 119 through 132 contains additional provisions.

¹⁹ Public Law 102-271 which designated this river contains additional provisions.

²⁰ Public Law 102-275 which designated rivers 134 through 141 contains an additional provision regarding a State-administered component.

²¹ Public Law 103-162 which designated this river contains additional provisions.

²² Public Law 103-170 which designated this river contains an additional provision.

²³ Public Law 103-242 which designated this river contains additional provisions.

²⁴ Public Law 103-313 which designated this river contains additional provisions.

²⁵ Title II, Section 202 of Public Law 99-590 contains additional provisions concerning the Farmington River.

²⁶ Public Law 101-357 which authorized this study contains an additional provision regarding funding.

²⁷ Should be (108). Congress will probably pass a technical amendment to correct the numbering sequence.

²⁸ From this point on, except for White Clay Creek, the authorizing legislation did not provide numbers. Numbers 109-135 have been assigned chronologically to assist the user. Congress probably will pass a technical amendment providing numbers.

²⁹ Public Law 101-628 which authorized this study contains additional provisions.

³⁰ Public Law 102-50 which authorized this study contains additional provisions.

³¹ Should be 113.

³² Section 5 of Public Law 102-249 which authorized studies 114 through 124 contains special study provisions.

³³ Section 7(b) of Public Law 102-301 which authorized studies 127 through 131 contains additional study instructions.

³⁴ Probably should refer to Section 1203.

³⁵ This should be (10). Future technical amendments probably will be made to establish correct numbering sequence.

³⁶ Should be (12)(A).

³⁷ Should be (13).

³⁸ Should be (14).

³⁹ So in original law. Refers to "the Wilderness Act."

Laws Amending or Related to the Wild and Scenic Rivers Act.

- | | | | |
|----------|-----------|-----------|-----------|
| • 92-560 | • 99-663 | • 101-175 | • 102-432 |
| • 93-621 | • 100-33 | • 101-357 | • 102-460 |
| • 94-199 | • 100-150 | • 101-612 | • 102-536 |
| • 94-486 | • 100-412 | • 101-628 | • 103-162 |
| • 95-87 | • 100-552 | • 102-50 | • 103-170 |
| • 95-625 | • 100-534 | • 102-220 | • 103-242 |
| • 96-87 | • 100-557 | • 102-249 | • 103-313 |
| • 96-312 | • 100-605 | • 102-271 | |
| • 96-487 | • 100-633 | • 102-275 | |
| • 99-590 | • 100-677 | • 102-301 | |

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<http://www.nps.gov/rivers/wsract.html>

Wild and Scenic Rivers Guidelines

Federal Register / Vol. 47, No. 173 / Tuesday, September 7, 1982

DEPARTMENT OF THE INTERIOR

Office of the Secretary

National Park Service

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forest Service

National Wild and Scenic Rivers System; Final Revised Guidelines for Eligibility, Classification and Management of River Areas

AGENCY: National Park Service and Office of the Secretary, Interior; Forest Service and Office of the Secretary, USDA.

ACTION: Publication of final revised guidelines.

FOR FURTHER INFORMATION CONTACT: Bob Brockwehl (NPS), 202/272-3566. William R. Snyder (USFS), 202/382-8014.

SUPPLEMENTARY INFORMATION: Guidelines for the study of potential national wild and scenic rivers and management of designated rivers were first issued jointly by the Department of Agriculture and the Department of the Interior in 1970. On January 28, 1981, draft revised guidelines were published in the *Federal Register* for public comment (Vol. 46, No. 18, pp. 9148-9158). The document which follows was prepared after consideration of 50 letters of comment received from other Federal agencies, State governments, private industry, citizens' groups and individuals. Major comments and responses are summarized below. Many of the comments received were not addressed because they related to aspects of the wild and scenic rivers program beyond the scope of these guidelines. (See Preface of the revised guidelines.)

Comments and Responses

Comment: The definition of the term outstandingly remarkable value is too vague and too liberal. Too many rivers will be eligible for designation, unreasonably constraining economic development of natural resources.

Response: Balancing of the need for protection versus development of each river area will be considered by the Congress in deciding whether or not to designate the river area. A determination that a particular river is eligible for designation does not necessarily imply that designation is the best use of the river in terms of the national interest.

Comment: The guidelines give inadequate emphasis to public involvement in the study process.

Response: Public involvement is sufficiently addressed in the context of environmental statements or assessments prepared in the study process.

Comment: The guidelines do not make sufficiently clear which of the management principles apply to private lands.

Response: The guidelines may be unclear to the general reader in this respect. The management principles are to be implemented throughout each river area to the fullest extent possible under the managing agency's general statutory authorities and other existing Federal, State and local laws, including zoning ordinances where available. Some management principles obviously apply only to Federal lands within the river area. For instance, the Wild and Scenic Rivers Act does not open private lands to public recreation. Management principles may apply to private lands only to the extent required by other laws such as local zoning and air and water pollution regulations.

Comment: Restriction of timber harvest to selective harvest techniques is unnecessarily limiting from both the timber production and the natural resource preservation standpoints.

Response: The guidelines have been amended in accordance with this comment.

Comment: Specific guidance contained in the 1970 guideline with respect to the granting of rights-of-way for transmission lines is omitted from the revised draft guidelines.

Response: The subsection on rights-of-way has been amended in accordance with this comment.

Comment: A protected study area extending one half mile from each bank of the river is excessive when the final boundaries of a river area must average no more than one quarter mile from each bank (320 acres per mile).

Response: The half-mile figure was intended to ensure that all areas likely to be included within the boundaries of a designated river area would be considered in the study process. Setting a study boundary based on the "visual corridor" concept was considered but rejected. The one-quarter-mile figure was finally selected to avoid unnecessary limitations on resource developments. Some developments which may be initiated beyond the one-quarter-mile boundary during the study period might be affected in the future if the area under development is included in the boundaries of the river area designated by Congress.

Comment: Evaluation of the study area in its existing condition for classification purposes does not allow for the fact that a forest area growing in relatively natural condition at the time of the study may be scheduled for clearcutting at some future date. The classification process should allow for authorized and scheduled future uses which could change the condition and, thus, the classification of the river area.

Response: The guidelines have been amended to permit consideration of alternative classifications for the river area where authorized future uses could alter classification. The following additional changes were made in response to suggestions from the reviewing public or from reviewers within the responsible agencies.

- Unnecessary definitions were deleted.
- Quotations and paraphrases of the Wild and Scenic River Act (including the whole of Section II -- Policy) were eliminated as much as possible. Instead, the guidelines will reference the appropriate sections of the Act where necessary.
- The entire subsection titled "Findings and Recommendations" and portions of the subsection titled

"General Management Principles" were deleted and their content was placed in other appropriate sections.

Additional copies of the guidelines, the Wild and Scenic Rivers Act, as amended, and further information on the National Wild and Scenic Rivers System may be obtained from: National Park Service, Rivers and Trails Division (780), 440 G Street, N.W., Washington, D.C. 20243.

Dated: July 12, 1982.

G. Ray Arnett, Assistant Secretary for Fish and Wildlife and Parks (Interior).

Dated: August 26, 1982.

Douglas W. MacCleery, Deputy Assistant Secretary for Natural Resources and Environment (Agriculture).

Department of Agriculture

Department of the Interior

National Wild and Scenic Rivers System

Guidelines for Eligibility, Classification and Management of River Areas.

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Preface

The National Wild and Scenic Rivers System

The Wild and Scenic Rivers Act, (Pub. L. 90-542 as amended; 16 U.S.C. 1271-1287) established a method for providing Federal protection for certain of our country's remaining free-flowing rivers, preserving them and their immediate environments for the use and enjoyment of present and future generations. Rivers are included in the system so that they may benefit from the protective management and control of development for which the Act provides.

The preamble of the Act states:

It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in freeflowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes.

Addition of Rivers to the System

The Wild and Scenic Rivers Act provides two methods for adding a river to the National Wild and Scenic Rivers System. The first method is by an act of Congress. Congress can designate a river directly, or it can authorize a river for study as a potential wild, scenic or recreational river. Upon completion of a study conducted by the Department of the Interior or the Department of Agriculture, a study report is prepared and transmitted to the President who, in turn, forwards it with his recommendations to Congress for action.

The second method for inclusion of a river in the national system is through the authority granted to the Secretary of the Interior in section 2(a)(ii) of the Act. Upon application by the Governor or Governors of the State or States involved, the Secretary can designate a river as a component of the national system provided that the river has been designated as a wild, scenic or recreational river by or pursuant to an act of the legislature of the State or States through which it flows to be permanently administered as a wild, scenic, or recreational river by an agency or political subdivision of the State or States concerned.

To be eligible for inclusion in the system through either method, rivers must meet certain criteria set forth in section 2(b) of the Act. Procedures for proposing State-administered rivers for designation have been issued by the Department of the Interior.

The Guidelines

Subsequent to enactment of the Wild and Scenic Rivers Act in October 1968, the Departments of Agriculture and the Interior initiated studies of twenty-seven rivers which the Act authorized for study as potential additions to the National Wild and Scenic Rivers System. As these studies progressed, it became evident that specific requirements of the Act concerning the evaluation, classification and management of these rivers were subject to differing interpretations within and between the two departments.

It was therefore agreed that a uniform evaluation and management approach should be formulated for use by the two departments, and through a cooperative effort, Guidelines for Evaluating Wild, Scenic and Recreational River Areas Proposed for Inclusion in the National Wild and Scenic Rivers System Under Section 2, Public Law 90-542 was prepared and promulgated in February 1970.

The guidelines not only provide guidance for the congressionally mandated studies under section 5(a) of the Act, but are also useful for evaluations conducted by water resource development agencies under section 5(d) and for States applying for inclusion of State-designated rivers in the national system.

Revision of the Guidelines

While these guidelines were effective throughout a decade, it became clear that revision was necessary to incorporate changes identified through use and to reflect requirements of new laws and regulations. Therefore, on August 2, 1979, the President directed in his Environmental Message that "the Secretary of Agriculture and the Secretary of the Interior shall jointly revise their guidelines for evaluating wild, scenic and recreational rivers to ensure consideration of river ecosystems and to shorten the time currently used to study rivers for designation."

This revision of the guidelines has been prepared in response to the President's 1979 directive and includes:

- Clarification of the fact that free-flowing rivers which contain outstandingly remarkable ecological values are eligible for addition to the national system.
- Clarification of the fact that free-flowing river segments in or near urban areas that possess outstandingly remarkable values are eligible for addition to the national system.
- Elimination of the 25-mile minimum length guideline.
- Revision of the definition of sufficient river flow or volume of water in the river. Sufficient flow was not defined in the Act, and the definition in the existing guidelines was unnecessarily limiting.
- Revised water quality guidelines to allow inclusion in the system of rivers where restoration to high water quality is planned.
- A revised section on management of designated river areas.
- A study schedule to accelerate completion of the river studies authorized by Congress.

Section I -- Definitions

The following definitions are provided for the purpose of these guidelines only.

Act: The Wild and Scenic Rivers Act.

Carrying capacity: The quantity of recreation use which an area can sustain without adverse impact on the outstandingly remarkable values and free-flowing character of the river area, the quality of recreation experience, and public health and safety.

Classification criteria: Criteria specified in Section 2(b) of the Act for determining the classification (wild, scenic or recreational) of eligible river segments.

Classification: The process of determining which of the classes outlined in section 2(b) of the Act (wild, scenic, or recreational) best fit the river or its various segments.

Component: A river area designated as a unit of the National Wild and Scenic Rivers System.

Designation: Inclusion of a river area in the national system either by act of Congress or by authority of the Secretary of the Interior.

Development: Any manmade structure or modification of the natural or existing river environment.

Eligibility: Qualification of a river for inclusion in the national system through determination that it is free-flowing and with its adjacent land area possesses at least one outstandingly remarkable value.

Flow: The volume of water in a river passing a given point in a given period of time, usually expressed in terms of cubic feet per second or cubic meters per second.

Impoundment: A body of water formed by any manmade structure.

Management plan: The detailed development plan required under section 3(b) of the Act which states the boundaries and classification of the river area and presents a plan for its public use, development and administration.

Primary contact recreation: Activities in which there is prolonged and intimate contact with the water, (e.g., swimming, water skiing, surfing, kayaking, "tubing," and wading or dabbling by children).

River area: For a river study, that portion of a river authorized by Congress for study and its immediate environment comprising an area extending at least one-quarter mile from each bank. For designated rivers, the river and adjacent land within the authorized boundaries.

Secondary contact recreation: Activities in which contact with the water is either incidental or accidental, e.g., boating, fishing and limiting contact with water incident to shoreline activities.

Study agency: The agency within the Department of Agriculture or the Department of the Interior delegated the responsibility for a wild and scenic river study.

Study report: The report on the suitability or unsuitability of a study river for inclusion in the national system, which section 4(a) requires the Secretary of Agriculture, or the Secretary of the Interior, or both jointly to prepare and submit to the President. The President transmits the report with his recommendation to the Congress.

Study team: A team of professionals from interested local, State and Federal agencies invited by the study agency and participating in the study.

Section II -- The River Study

The Study Process

Section 4(a) mandates that all rivers designated as potential additions to the system in section 5(a) be studied as to their suitability for inclusion in the system:

The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and submit to the President reports on the suitability or nonsuitability for addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as potential additions to such system. The President shall report to the Congress his recommendations and proposals with respect to the designation of each such river or section thereof under this Act.

The purpose of a wild and scenic river study is to provide information upon which the President can base his recommendation and Congress can make a decision. Procedures for developing the necessary information and preparing the study report may vary depending on the agency which conducts the study, but generally will include the steps shown on Table 1, Accelerated Study Schedule.

Wild and scenic river studies will comply with all applicable statutes and executive orders, which may include the following: the National Environmental Policy Act (Pub. L. 91-190), the National Historic Preservation Act (Pub. L. 89-665), the Endangered Species Act (Pub. L. 93-205), the Fish and Wildlife Coordination Act (Pub. L. 85-264), the Water Resources Planning Act (Pub. L. 89-80), the Floodplain and Wetlands Executive Orders (E.O. 11988 and E.O. 11990), the National Forest Management Act of 1976 (Pub. L. 94-588), the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579), the Wild and Scenic Rivers Act, (Pub. L. 90-542, as amended), and any rules and regulations issued pursuant thereto.

The Study Report

Each river study report will be a concise presentation of the information required in sections 4(a) and 5(c) of the Act as augmented by the Council on Environmental Quality regulations implementing the procedural provisions of the National Environmental Policy Act (40 CFR Parts 1500-1508).

Section 4(a):

Each report, including maps and illustrations, shall show among other things the area included within the report; the characteristics which do or do not make the area a worthy addition to the system; the current status of land ownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed or curtailed if the area were included in the national wild and scenic rivers system; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area, should it be added to the system, be administered; the extent to which it is proposed that such administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area, should it be added to the system.

In addition, section 5(c) requires that:

The study of any of said rivers . . . shall include a determination of the degree to which the State or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

Study reports may be combined with draft and final environmental impact statements (EIS) as permitted by Section 1506.4 of the Council on Environmental Quality regulations. Study reports will be reviewed by other Federal agencies, states and the public as required by section 4(b) of the Wild and Scenic Rivers Act. Each of the following subsections describes the way in which the information is generated, analyzed and presented in the report.

Description of the River Area

Each report will contain a description of the area included in the study. The study area will cover, as a minimum, an area extending the length of the river segment authorized for study and extending in width one-quarter mile from each bank of the river.

Adjacent river areas beyond one quarter mile from each river bank may be studied if their inclusion could facilitate management of the resources of the river area. For example, there may be important historic, archeological or ecological resource areas which may extend beyond the boundaries of the mandated study area, but could be better managed by inclusion in the river area. Also, management of the river area may be facilitated by extension to include established or available access points not included in the study.

For the purposes of study and determining eligibility and classification, the river area may be divided into segments.

The description of the river area will identify the outstandingly remarkable values and the extent of man's activity in the river environment to provide a clear basis for findings of eligibility and classification. While only one outstandingly remarkable value is necessary for eligibility, the study report should carefully document all values of the river area.

In addition to the information required by Sections 4(a) and 5(c) of the Act, this section of the report will describe any existing zoning ordinances or other provisions of law governing land use in the study area.

If the study report and the environmental impact statement are combined, the same chapter may describe both the river area and the affected environment. For EIS purposes and for general information, a brief description of the regional setting will also be included.

Determination of Eligibility

Each report will contain a determination as to the eligibility of all portions of the authorized study area. Section 2(b) of the Act states that "a . . . river area eligible to be included in the system is a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in section 1, subsection (b) of this Act." The terms "river" and "free-flowing" are defined in section 16 of the act.

In reading and applying the criteria for eligibility, the following points are relevant:

- The fact that a river segment may flow between large impoundments will not necessarily preclude its designation. Such segments may qualify if conditions within the segment meet the criteria.
- Rivers or river segments in or near urban areas that possess outstandingly remarkable values may qualify. Only one outstandingly remarkable value is needed for eligibility.
- In addition to the specific values listed in Section 1(b) of the Act, other similar values, such as ecological, if outstandingly remarkable, can justify inclusion of a river in the national system.
- The determination of whether a river area contains "outstandingly remarkable" values is a professional judgment on the part of the study team. The basis for the judgment will be documented in the study report.
- There are no specific requirements concerning the length or the flow of an eligible river segment. A river segment is of sufficient length if, when managed as a wild, scenic or recreational river area, the outstandingly remarkable values are protected. Flows are sufficient if they sustain or complement the outstandingly remarkable values for which the river would be designated.

Classification

Study reports will indicate the potential classification which best fits each eligible river segment as viewed in its existing condition. Section 2(b) of the Act states that rivers which are found eligible and included in the National Wild and Scenic Rivers Systems shall be classified as one of the following:

(1) Wild river areas -- Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shoreline essentially primitive and waters unpolluted. These represent vestiges of primitive America.

These criteria are interpreted as follows:

- "Free of impoundments." Wild river areas shall be free of impoundments.
- "Generally inaccessible except by trail." Wild river areas will not contain roads, railroads, or other provisions for vehicular travel within the river area. The existence of a few inconspicuous roads leading to the boundary of the river area at the time of study will not necessarily bar wild river classification.
- "Watersheds or shorelines essentially primitive." Wild river areas will show little or no evidence of human activity. Shorelines and watersheds within the river area should be essentially free of structures including such things as buildings, pipelines, powerlines, dams, pumps, generators, diversion works, rip-rap and other modifications of the waterway or adjacent land within the river corridor. The existence of a few inconspicuous structures, particularly those of historic or cultural value, at the time of study need not bar wild classification.

A limited amount of domestic livestock grazing or hay production may be considered "essentially primitive." There should be no row crops or ongoing timber harvest and the river area should show little or no evidence of past logging activities.

- "Waters unpolluted." The water quality of a wild river will meet or exceed Federal criteria or federally approved State standards for aesthetics, for propagation of fish and wildlife normally adapted to the habitat of the stream, and for primary contact recreation except where exceeded by natural conditions.

(2) Scenic river areas -- Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

These criteria are interpreted as follows:

- a. "Free of impoundments." Scenic river areas will be free of impoundments.
- b. "Shorelines or watersheds still largely primitive." To qualify for scenic classification, the rivers segment's shorelines and immediate environment should not show substantial evidence of human activity. The portion of the watershed within the boundary of the scenic river may have some discernible existing development. "Largely primitive" means that the shorelines and the immediate river environment still present an overall natural character, but that in places land may be developed for agricultural purposes. Row crops would be considered as meeting the test of "largely primitive," as would timber harvest and other resource use, providing such activity is accomplished without a substantial adverse effect on the natural appearance of the river or its immediate environment.
- c. "Shorelines largely undeveloped" means that any structures or concentration of structures must be limited to relatively short reaches of the total area under consideration for designation as a scenic river area.
- d. "Accessible in places by road" means that roads may reach the river area and occasionally bridge the river. The presence of short stretches of conspicuous or longer stretches of inconspicuous and well-screened roads or railroads will not necessarily preclude scenic river designation. In addition to the physical and scenic relationship of the free-flowing river area to roads or railroads, consideration should be given to the type of use for which such roads or railroads were constructed and the type of use which would occur within the proposed scenic river area.

(3) Recreational river areas -- Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

These criteria are interpreted as follows:

- a. "Readily accessible by road or railroad." River areas classified as recreational may contain existing parallel roads or railroads in close proximity to one or both banks of the river as well as bridge crossings and roads fording or ending at the river.
- b. "Some development along their shorelines." Lands may have been developed for the full range of agricultural and forestry uses, may show evidence of past and ongoing timber harvest, and may include some residential, commercial or similar development.
- c. "Some impoundment or diversion in the past." There may be some existing impoundments, diversions and other modifications of the waterway having an impact on the river area. Existing low dams, diversion works, rip-rap and other minor structures will not bar recreational classification, provided the waterway remains generally natural and riverine in appearance. The classification criteria are summarized in Table 2, appended to these guidelines.

There are several points which all participants and observers of the study process should bear in mind when reading and applying the classification criteria:

- It is important to understand each criterion, but it is more important to understand their collective intent. Each river segment and its immediate environment should be considered as a unit. The basis for classification is the degree of naturalness, or stated negatively, the degree of evidence of man's activity in the river area. The most natural rivers will be classified wild; those somewhat less natural, scenic, and those least natural, recreational.
- Generally, only conditions within the river area determine classification; however, occasionally conditions outside the river area, such as developments which could impact air and water quality, noise levels or scenic views within the river area, may influence classification.
- For the purpose of classification, a river area may be divided into segments. Each segment, considered as a whole, will conform to one of the classifications. In segmenting the river, the study team should take into account the management strategies necessary to administer the entire river area and should avoid excessive segmentation.
- The Wild and Scenic Rivers Act provides no specific guidance on water quality for scenic and recreational rivers. However, the Clean Water Act has made it a national goal that all waters of the United States be made fishable and swimmable, and provides the legal means for upgrading water quality in any river which would otherwise be suitable for inclusion in the system. Therefore, rivers will not necessarily be excluded from the system because of poor water quality at the time study, provided a water quality improvement plan exists or is being developed in compliance with applicable State and Federal laws.
- Although each classification permits certain existing development, the criteria do not imply that additional inconsistent development is permitted in the future.
- The classification criteria provide uniform guidance for professional judgment, but they are not absolutes. It is not possible to formulate criteria so as to mechanically or automatically classify river areas. Therefore, there may occasionally be exceptions to some of the criteria. For example, if the study team finds that strict application of the statutory classification criteria would not provide the most appropriate classification for a specific river segment, the study report may recommend for congressional consideration an exception to the classification criteria.

Analysis of the Alternatives

To provide for decision making and to satisfy the requirements of the National Environmental Policy Act, study reports will include an analysis of alternatives. The study team will develop an array of alternative plans encompassing all reasonable proposals for use of the river area including uses which may be incompatible with designation of the river area as a component of the national system. Where appropriate, alternative plans for the river area may be based on, but not limited to:

- Alternative managing agencies for the river area;
- Alternative protective measures other than national designation;
- Alternative uses of the area incompatible with designation as a component of the national system; and
- Alternative classifications for the river area. Occasionally there may be authorized but not yet constructed projects, which if constructed would alter the classification of the river area. In such cases, alternatives may be presented to permit consideration of the river area as it would be classified both with and without the authorized project. Authorized projects may include approved land management plans prepared by a Federal land management agency under its statutory authorities.

The study report will present at least one alternative plan calling for national designation through either Congressional or Secretarial designation of all eligible segments of the congressionally authorized study area.

If the study team finds a segment ineligible for designation as a component of the National Wild and Scenic Rivers System, but still worthy of protection, alternatives for State, local or private preservation may be presented, as well as protection under other Federal programs.

If areas adjacent to the study area have been studied and found eligible, the report may present alternatives which incorporate such areas into the river area proposed for designation. Such expansion of the original study area either in length or in width may be desirable to preserve and facilitate management of river ecosystems, historic or archeological areas or other special areas.

Section III -- Management

Wild and scenic rivers shall be managed with plans prepared in accordance with the requirements of the Act, other applicable laws, and the following general management principles. Management plans will state: General principles for any land acquisition which may be necessary; the kinds and amounts of public use which the river area can sustain without impact to the values for which it was designated; and specific management measures which will be used to implement the management objectives for each of the various river segments and protect esthetic, scenic, historic, archaeologic and scientific features.

If the classification or classifications determined in the management plan differ from those stated in the study report, the management plan will describe the changes in the existing condition of the river area or other considerations which required the change in classification.

General Management Principles

Section 10(a) states,

Each component of the national wild and scenic rivers system shall be administered in such a manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archaeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development on the special attributes of the area.

This section is interpreted as stating a nondegradation and enhancement policy for all designated river areas, regardless of classification. Each component will be managed to protect and enhance the values for which the river was designated, while providing for public recreation and resource uses which do not adversely impact or degrade those values. Specific management strategies will vary according to classification but will always be designed to protect and enhance the values of the river area. Land uses and developments on private lands within the river area which were in existence when the river was designated may be permitted to continue. New land uses must be evaluated for their compatibility with the purposes of the Act.

The management principles which follow stem from section 10(a). Managing agencies will implement these principles to the fullest extent possible under their general statutory authorities and existing Federal, State and local laws. Because of these limitations, however, implementation of the principles may differ among and within components of the system depending on whether the land areas involved are federally, State, locally or privately owned.

Carrying Capacity. Studies will be made during preparation of the management plan and periodically thereafter to determine the quantity and mixture of recreation and other public use which can be permitted without adverse impact on the resource values of the river area. Management of the river area can then be planned accordingly.

Public Use and Access. Public use will be regulated and distributed where necessary to protect and enhance (by allowing natural recovery where resources have been damaged) the resource values of the river area. Public use may be controlled by limiting access to the river, by issuing permits, or by other means available to the managing agency through its general statutory authorities.

Basic Facilities. The managing agency may provide basic facilities to absorb user impacts on the resource. Wild river areas will contain only the basic minimum facilities in keeping with the "essentially primitive" nature of the area. If facilities such as toilets and refuse containers are necessary, they will generally be located at access points or at a sufficient distance from the river bank to minimize their intrusive impact. In scenic and recreational river areas, simple comfort and convenience facilities such as toilets, shelters, fireplaces, picnic tables and refuse containers are appropriate. These, when placed within the river area, will be judiciously located to protect the values of popular areas from the impacts of public use.

Major Facilities. Major public use facilities such as developed campgrounds, major visitor centers and administrative headquarters will, where feasible, be located outside the river area. If such facilities are necessary to provide for public use and/or to protect the river resource, and location outside the river area is infeasible, such facilities may be located within the river area provided they do not have an adverse effect on the values for which the river area was designated.

Motorized Travel. Motorized travel on land or water is generally permitted in wild, scenic and recreational river areas, but will be restricted or prohibited where necessary to protect the values for which the river area was designated.

Agricultural and Forestry Practices. Agricultural and forestry practices should be similar in nature and intensity to those present in the area at the time of designation. Generally, uses more intensive than grazing and hay production are incompatible with wild river classification. Row crop production and timber harvest may be practice in recreational and scenic river areas. Recreational river areas may contain an even larger range of agricultural and forestry uses. Timber harvest in any river area will be conducted so as to avoid adverse impacts on the river area values.

Other Resource Management Practices. Resource management practices will be limited to those which are necessary for protection, conservation, rehabilitation or enhancement of the river area resources. Such features as trail bridges, fences, water bars and drainage ditches, flow measurement devices and other minor structures or management practices are permitted when compatible with the classification of the river area and provided that the area remains natural in appearance and the practices or structures harmonize with the surrounding environment.

Water Quality. Consistent with the Clean Water Act, water quality in wild, scenic and recreational river areas will be maintained or, where necessary, improved to levels which meet Federal criteria or federally approved State standards for aesthetics and fish and wildlife propagation. River managers will work with local authorities to abate activities within the river area which are degrading or would degrade existing water quality.

Additional management principles stem from other sections of the Act as follows:

- Land Acquisition: Section 6
- Water Resource Development: Section 7
- Mining: Section 9
- Management of Adjacent Federal Lands: Section 12(a)
- Hunting and Fishing: Section 13(a)
- Water Rights: Section 13(b)-(f)
- Rights-of-Way: Section 13(g)

The following policies are consistent with and supplement the management principles stated in the Act:

Land Use Controls. Existing patterns of land use and ownership should be maintained, provided they remain consistent with the purposes of the Act. Where land use controls are necessary to protect river area values, the managing agency will utilize a full range of land-use control measures including zoning, easements and fee acquisition.

Rights-of-Way. In the absence of reasonable alternative routes, new public utility rights-of-way on Federal lands affecting a Wild and Scenic River area or study area will be permitted. Where new rights-of-way are unavoidable, locations and construction techniques will be selected to minimize adverse effects on scenic, recreational, fish and wildlife and other values of the river area.

Other legislation applicable to the various managing agencies may also apply to wild and scenic river areas. Where conflicts exist between the provisions of the Wild and Scenic Rivers Act and other acts applicable to lands within the system, the more restrictive provisions providing for protection of the river values shall apply.

Table 1 -- Accelerated Study Schedule*(omitted, no longer used)***Table 2 -- Classification Criteria for
Wild, Scenic and Recreational River Areas**

ATTRIBUTE	WILD	SCENIC	RECREATIONAL
Water Resources Development	Free of impoundment.	Free of impoundment.	Some existing impoundment or diversion. The existence of low dams, diversions, or other modifications of the waterway is acceptable, provided the waterway remains generally natural and riverine in appearance.
Shoreline Development	Essentially primitive. Little or no evidence of human activity. The presence of a few inconspicuous structures, particularly those of historic or cultural value, is acceptable. A limited amount of domestic livestock grazing or hay production is acceptable. Little or no evidence of past timber harvest. No ongoing timber harvest.	Largely primitive and undeveloped. No substantial evidence of human activity. The presence of small communities or dispersed dwellings or farm structures is acceptable. The presence of grazing, hay production, or row crops is acceptable. Evidence of past or ongoing timber harvest is acceptable, provided the forest appears natural from the riverbank.	Some development. Substantial evidence of human activity. The presence of extensive residential development and a few commercial structures is acceptable. Lands may have been developed for the full range of agricultural and forestry uses. May show evidence of past and ongoing timber harvest.
Accessibility	Generally inaccessible except by trail. No roads, railroads or other provision for vehicular travel within the river area. A few existing roads leading to the boundary of the river area is acceptable.	Accessible in places by road. Roads may occasionally reach or bridge the river. The existence of short stretches of conspicuous or longer stretches of inconspicuous roads or railroads is acceptable.	Readily accessible by road or railroad. The existence of parallel roads or railroads on one or both banks as well as bridge crossings and other river access points is acceptable.

Water Quality	Meets or exceeds federal criteria or federally approved state standards for aesthetics, for propagation of fish and wildlife normally adapted to the habitat of the river, and for primary contact recreation (swimming), except where exceeded by natural conditions.	No criteria prescribed by the Wild and Scenic Rivers Act. The Federal Water Pollution Control Act Amendments of 1972 have made it a national goal that all waters of the United States be made fishable and swimmable. Therefore, rivers will not be precluded from scenic or recreational classification because of poor water quality at the time of their study, provided a water quality improvement plan exists or is being developed in compliance with applicable federal and state laws.
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CHAPTER 83-358

Committee Substitute for Senate Bill No. 459

An act relating to the Loxahatchee River; creating the Loxahatchee River Wild and Scenic Designation and Preservation Act; providing legislative declarations and intent; providing definitions; designating a portion of the river as a wild and scenic river; providing for development of a management plan; providing for a coordinating council; authorizing the Governor to apply for inclusion of the designated portion of the river in the National Wild and Scenic Rivers System; providing for preservation of existing governmental authority; providing for rules; specifying regulatory and permitting authority; providing for enforcement; providing for injunctions; specifying violations and penalties; providing for repeal; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Short title.--Sections 1 through 12 of this act may be cited as the "Loxahatchee River Wild and Scenic Designation and Preservation Act."

Section 2. Legislative declaration.--The Legislature finds and declares that a certain segment of the Loxahatchee River in Palm Beach and Martin Counties possesses outstandingly remarkable ecological, fish and wildlife, and recreational values which are unique in the United States. These values give national significance to the river as one which should be permanently preserved and enhanced, not only for the citizens of the State of Florida, but for the citizens of the United States, of present and future generations. The permanent management and administration of the river, however, involves a complex interaction of national, state, regional, and local interests which require balancing, coordination of purpose and continuing participation by and access to the public, through its elected representatives. It is the intention of the Legislature to provide for the permanent preservation of the designated segment of the Loxahatchee River by way of development of a plan for permanent administration by agencies of the state and local government which will ensure the degree of protection necessary for inclusion of that segment of the river in the National Wild and Scenic Rivers System but retaining that degree of flexibility, responsiveness, and expertise which will accommodate all of the diverse interests involved in a manner best calculated to be in the public interest.

Section 3. Definitions.--As used in this act:

(1) "Activity" means the doing of any act or the failing to do any act, whether by a natural person or a corporation.

(2) "Board" means the governing board of the South Florida Water Management District.

(3) "Coordinating Council" means the council created by s. 5(3)(o).

(4) "Department" means the Department of Natural Resources.

(5) "Division" means the Division of Recreation and Parks of the Department of Natural Resources.

(6) "Executive Board" means the Governor and Cabinet sitting as the head of the Department of Natural Resources.

(7) "Resource value" means any one or more of the specific scenic, recreational, geologic, fish and wildlife, historic, cultural, or ecological features identified by the National Park Service, Department of the Interior, in its Draft Wild and Scenic Rivers Study/Draft Environmental Impact Statement as being outstandingly remarkable or worthy of note.

(8) "River area" means that portion of the Northwest Fork of the Loxahatchee River from river mile 6 to river mile 13.5, together with such abutting uplands as determined in the permanent management plan to form the corridor having visual impact on the river user, and which may be necessary to maintain the natural and scenic appeal of the river.

Section 4. Designation of wild and scenic river.--The Northwest Fork of the Loxahatchee River between river mile 6 and river mile 13.5 is hereby designated as a wild and scenic river for the purposes of this act and subject to all of the provisions of this act. Such designated portion is more particularly described as that portion of the Northwest Fork downstream of the southern boundary of Riverbend County Park located in Palm Beach County and upstream of an east-west line passing through a point where the southern boundary of Jonathan Dickinson State Park intersects the eastern shoreline of the river.

Section 5. Development of management plan.--

(1) The department and the South Florida Water Management District shall jointly develop a proposed management plan for the designated segment of the Loxahatchee River, which management plan, subject to and consistent with the provisions of this act, will be designed to qualify the designated segment of the river for inclusion in the National Wild and Scenic Rivers System.

(2) The development of the proposed management plan shall include participation by the National Park Service, by all appropriate state agencies, by all appropriate or interested local governments, including but not limited to Palm Beach County, Martin County, the Jupiter Inlet District, the Town of Jupiter, the Loxahatchee River Environmental Control District, the South Indian River Water Control District, and the Northern Palm Beach County Water Control District, the Palm Beach County Farm Bureau, and by any others deemed advisable by the department or board. To the extent not inconsistent with the provisions of this act, the plan shall include such conditions as the United States Secretary of the Interior may require.

(3) The proposed management plan shall include provision for:

(a) Permanent protection and enhancement of the ecological, fish and wildlife, and recreational values identified by the National Park Service in its draft study of the river and for which the river was chosen for inclusion in the system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of those values; primary emphasis being given to protecting esthetic, scenic, historic, archaeologic, and scientific features;

(b) Continuation of land uses and developments on private lands within the river area which are in existence on the effective date of this act which are not incompatible with the purposes of designation;

(c) Periodic studies to determine the quantity and mixture of recreation and other public uses which can be permitted without adverse impact on the resource values of the river area;

(d) Regulation and distribution of public access where necessary to protect and enhance the resource values of the river area;

(e) Basic facilities to absorb user impact on the river area, including necessary toilet or refuse containers, but located in order to minimize their intrusive impact;

(f) Location of major facilities such as developed campgrounds, visitor centers, and administrative headquarters outside the river area;

(g) Restriction of motorized travel by land vehicle or boat where necessary to protect the resource values in the river area;

(h) Agricultural and forestry practices similar in nature and intensity or less intensive than those present in the river area on the effective date of this act;

(i) Limitation of resource management practices to those necessary for protection, conservation, rehabilitation, or enhancement of river area resource values;

(j) Maintenance of existing water quality;

(k) Whenever alternative routes are unavailable, location and construction of new public utility or road, rights-of-way in a way which minimizes adverse effects on scenic, recreational, fish and wildlife, and other resource values in the river area;

(l) Continuance of existing drainage and water management practices, unless such existing practices will degrade or diminish existing water quality or existing resource values in the river area, and allowance of new water resource management practices which will not have a substantial adverse impact on resource values in the river area;

(m) Review and regulation of all activities conducted or proposed to be conducted which will or may have a substantial adverse impact on any of the resource values in the river area as provided in this act;

(n) Continuation of activities or developments below or above the designated segment which will not invade the river area or substantially diminish the scenic, recreational, and fish and wildlife resource values present in the river area on the effective date of this act; and

(o) A permanent management coordinating council composed of one representative from each of the participants provided for in subsection (2). The coordinating council shall review and make recommendations, in the first instance, on all applications for permits required by this act, as well as all proposals for amendments or modifications to the permanent management plan, and render its nonbinding advisory opinion to the board and the department. Each participant shall appoint one member to the coordinating council. The coordinating council shall elect a chairman, vice chairman, and secretary to serve for a term of 1 year. The coordinating council shall adopt bylaws to provide for such other officers as it may deem necessary, election of officers, removal of officers for just cause, meetings, quorum, procedures for the conduct of its business, and such other matters as the membership may deem advisable in the conduct of its business. Such professional staff as the coordinating council may require shall be provided by the South Florida Water Management District.

(4) To the extent not inconsistent with this act, the proposed management plan may also include any other provisions deemed by the department and the board to be necessary or advisable for the permanent protection of the river as a component of the National Wild and Scenic Rivers System.

Section 6. Authority for application for inclusion in National Wild and Scenic Rivers System.--Upon completion of the development of a proposed management plan, the executive director of the department shall forward the proposed management plan to the executive board. After the executive board has received, reviewed and accepted a proposed management plan, the Governor may apply to the United States Secretary of the Interior for inclusion of the designated segment of the Loxahatchee River into the National Wild and Scenic Rivers System.

Section 7. Preservation of existing governmental authority.--

(1) Nothing contained in this act shall operate to divest any agency, water management district, municipality, county, or special district of any authority or jurisdiction in existence on the effective date of this act.

(2) Construction and maintenance of improvements at the Jupiter Inlet and in the Loxahatchee River downstream from the designated segment for purposes of navigation, waterway flushing, or upland drainage, including creation or preservation of channels, maintenance dredging, jetty improvements, riprapping, construction of groins and similar improvements, and removal of sand or dead oyster shell bars when deemed to have a potential for substantial adverse impact on the resource values of the river area shall be undertaken using techniques which minimize adverse effects on scenic, recreational, fish and wildlife and other values of the river area.

Section 8. Rulemaking authority.--After approval by the Secretary of the Interior of an application by the Governor under this act for inclusion of the Loxahatchee River in the National Wild and Scenic Rivers System, the board and the department shall each have full authority under their separate jurisdictions as provided in s. 9 to adopt rules deemed necessary for the discharge of the respective duties of each as provided herein, including the adoption of the proposed management plan as the permanent management plan, and including the power to adopt rules modifying or amending the management plan in accordance with the provisions of this act and rules providing for permanent management of the designated segment as a component of the National Wild and Scenic Rivers System.

Section 9. Separation of regulatory authority.--

(1) The department shall have full and exclusive authority to adopt rules concerning and to regulate activities within the river area having a direct and substantial adverse effect on any resource value within the river area.

(2) The board shall have full and exclusive authority to adopt rules concerning and to regulate activities outside the river area having substantial adverse impact on resource values within the river area.

(3) The department and the board shall coordinate all activities related to rule adoption and enforcement in order to avoid to the maximum extent possible any conflicts or duplication arising therefrom.

Section 10. Permitting authority.--

(1) No person or entity shall conduct any activity or do anything which will or may have an adverse impact on any resource value in the river area without first having received a permit from the board or the department, as appropriate.

(2) Any applicant for a permit shall file an application for a permit with the board or the department, whichever has regulatory authority, upon such forms and in such manner as the board or the department shall by rule require. The board and the department may require, with or in addition to such applications, the furnishing of any information deemed necessary or desirable for full and complete consideration of all factors relevant to informed decisions on the applications.

(3) A permit may be granted only after a finding by the board or the department, whichever has regulatory authority, that the activity for which a permit has been requested will not have a substantial adverse impact on resource values in the river area.

(4) The board and the department may adopt an application fee schedule providing for payment of reasonable fees to defray the cost of processing applications.

(5) The provisions of chapter 120, Florida Statutes, shall apply to the board and to the department, but not to the coordinating council, in carrying out the functions and duties prescribed for each by this act.

Section 11. Enforcement.--

(1) Officers of the division shall have full authority to enforce any rule adopted under this act with the same police powers given them by law to enforce the rules of state parks.

(2) The board shall have full power to enforce this act or any rule adopted under this act by action for injunctive relief or by any other method available for enforcement of rules adopted under chapter 373.

Section 12. Penalties.--Violation of any rule adopted under this act constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes. Continuing violation after notice constitutes a separate violation for each day so continued.

Section 13. This act is repealed on a date 2 years after the effective date of this act, unless the portion of the Loxahatchee River designated by this act as a wild and scenic river is included in the National Wild and Scenic Rivers System on or before that date.

Section 14. This act shall take effect upon becoming a law.

Approved by the Governor June 24, 1983.

Filed in Office Secretary of State June 24, 1983.

RESOLUTION

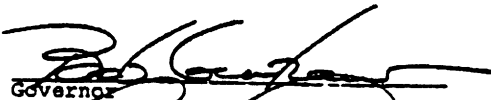
WHEREAS the Governor and Cabinet sitting as Head of the Department of Natural Resources have considered a Loxahatchee River Wild and Scenic Rivers Study and draft Environmental Impact Statement prepared by the United States Department of the Interior; and


WHEREAS the Department of the Interior has concluded that a 7.5-mile segment of the Loxahatchee River in Palm Beach and Martin Counties meets the criteria for inclusion in the National Wild and Scenic Rivers System; and

WHEREAS it would be in the best interest of the State to preserve and, to the maximum degree possible, enhance this exceptional resource:

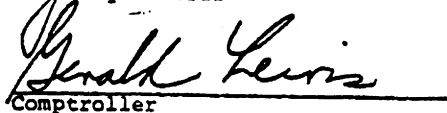
NOW, THEREFORE, BE IT RESOLVED that the Governor and Cabinet sitting as Head of the State of Florida Department of Natural Resources do hereby endorse in concept the inclusion of the identified 7.5-mile segment of the Loxahatchee River in the National Wild and Scenic Rivers System, and do direct the Department of Natural Resources staff, in concert with affected state, federal, regional, and local agencies, to develop a management plan which satisfies federal requirements for including the Loxahatchee River in the National Wild and Scenic Rivers System. The principal goals of the plan will be to preserve and enhance the river's unique natural values, restore the river's historical hydrologic regime, and reverse deleterious saltwater intrusion into the river. The staff is further directed to submit the plan to the Board for final consideration.

Adopted this 11th day of January, 1983,
by the Governor and the Cabinet of the State of Florida as
Head of the State of Florida Department of Natural Resources.


Governor

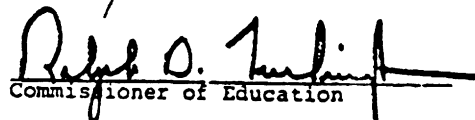

Secretary of State


Attorney General


Comptroller


Treasurer


Commissioner of Agriculture


Commissioner of Education

MINIMUM FLOWS AND LEVELS

Part I: General

40E-8.011 Purpose and General Provisions

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40E-8.421 Prevention and Recovery Strategies

40E-8.431 Consumptive Use Permitting

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PART I: GENERAL

40E-8.011 Purpose and General Provisions.

- (1) The purpose of this Chapter is:
 - (a) To establish minimum flows for specific surface watercourses and minimum water levels for specific surface waters and specific aquifers within the South Florida Water Management District, pursuant to Section 373.042, F.S.; and;

(b) To establish the rule framework for implementation of recovery and prevention strategies, developed pursuant to Section 373.0421, F.S.

(2) Minimum flows are established to identify where further withdrawals would cause significant harm to the water resources, or to the ecology of the area. Minimum levels are established to identify where further withdrawals would cause significant harm to the water resources of the area. Specific minimum flows and levels (MFLs) are established in this rule for specified priority water bodies that have been designated pursuant to Section 373.042(2) F.S.

(3) The MFL's established herein are based on existing best available information, and will be periodically reviewed, at least every five years, based on new information and changing water resource conditions. Revisions to established MFLs will be peer reviewed as required by Section 373.042, F.S., prior to rule adoption. The minimum flow criteria for the Caloosahatchee River in Rule 40E-8.221(2), F.A.C., shall be reviewed within one year of the effective date of this rule (September 10, 2001) and amended, as necessary, based on best available information.

(4) The recovery and prevention strategies set forth in Rule 40E-8.421, F.A.C., the consumptive use permitting procedures described in Paragraph Rules 40E-2.301(1)(i), Rule 40E-8.431, F.A.C., and Section 3.9 of the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – September 2001," and the water shortage plan implementation provisions specified in Rules 40E-8.441, 40E-21.531, and 40E-

21.541, and Part III of Chapter 40E-22, F.A.C., are inseparable components of the minimum flows and levels established in Rules 40E-8.321 and 40E-8.331, F.A.C. The District would not have adopted the minimum flows and levels set forth in Rules 40E-8.321 and 40E-8.331, F.A.C. for Lake Okeechobee, the Everglades, the Biscayne Aquifer, the Lower West Coast Aquifers, and the Caloosahatchee River without simultaneously adopting their related implementation rules. If the rules cited above, as they pertain to a specified MFL water body, are found to be invalid, in whole or in part, such specified minimum flow(s) or level(s) in Rule 40E-8.321 or 40E-8.331, F.A.C., (including Lake Okeechobee, Everglades, Biscayne Aquifer, Lower West Coast Aquifers, Caloosahatchee River) shall not be adopted, or if already in effect, shall not continue to be applied, until the District amends the applicable regional water supply plan(s), as necessary, and amends the subject rules, as necessary to address the reason for invalidity consistent with the requirements of Section 373.0421, F.S. This section shall be triggered after a rule is found to be invalid pursuant to a final order issued under Section 120.56, F.S., and after appellate review remedies have been exhausted.

Specific Authority 373.044, 373.113, 373.171 FS.

Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421 FS.

History - New 9-10-01.

40E-8.021 Definitions.

The terms set forth herein shall have the meanings ascribed to them, unless the context clearly indicates otherwise, and such meanings shall apply throughout the rules contained in this Chapter. The terms defined in Rule 40E-8.021, F.A.C., shall apply throughout the District's consumptive use permit rules. In the event of a conflict or difference between the definitions contained in Rule 40E-8.021, F.A.C., and the definitions set forth in other District rules, the definitions in this Rule 40E-8.021, F.A.C., shall control for purposes of this chapter.

(1) Biscayne Aquifer – means the highly permeable surficial strata (hydraulic conductivities generally greater than 500 ft/day) that occur within Monroe, Miami-Dade (excluding those portions of coastal Monroe and Miami-Dade counties that discharge groundwater into Florida and Biscayne Bays), eastern Broward, and portions of eastern Palm Beach counties.

(2) Caloosahatchee River – means the surface waters that flow through the S-79 structure, combined with tributary contributions below S-79 that collectively flow southwest to San Carlos Bay.

(3) C&SF Project – means the project for Central and Southern Florida authorized under the heading 'CENTRAL AND SOUTHERN FLORIDA' in section 203 of the Flood Control Act of 1948 (Chapter 771).

(4) CERP – means the Comprehensive Everglades Restoration Plan contained in the 'Final Integrated Feasibility Report and Programmatic Environmental Impact Statement', dated April 1, 1999, as modified by the Water Resources Development Act of 2000.

(5) Certification or Certify – means the formal determination by the District, through a validation process consistent with state and federal law, of the total amount of water made available by a project or project phase of a recovery or prevention strategy, as appropriate, for natural systems and other uses.

(6) Direct Withdrawal means:

(a) A ground water withdrawal that causes a water table drawdown greater than 0.1 feet, as determined using a model accepted by the District, at any location beneath the MFL surface water body or aquifer, up through a 1 in 10 year drought; or

(b) A surface water withdrawal from facilities physically located within the boundaries of a MFL surface water body.

(7) Everglades – means the lands and waters included within Water Conservation Areas, the Holeyland/Rotenberger wildlife management areas, and the freshwater portions of the Everglades National Park.

(8) Harm – means the temporary loss of water resource functions, as defined for consumptive use permitting in Chapter 40E-2, F.A.C., that results from a change in surface or ground water hydrology and takes a period of one to two years of average rainfall conditions to recover.

(9) Indirect Withdrawal – means the withdrawal of water from a water source for a consumptive use that receives surface water or ground water from a MFL water body or is tributary to a MFL water body.

(10) Lake Okeechobee – means the lands and waters contained within the perimeter of the Hoover Dike.

- (11) LEC Plan – means the Lower East Coast Regional Water Supply Plan – May 2000, including all three volumes.
- (12) Lower West Coast Aquifers – means the lower Tamiami aquifer, sandstone aquifer and the mid-Hawthorn aquifer that occur within Charlotte, Hendry, Glades, Lee and Collier counties.
- (13) LWC Plan – means the Lower West Coast Regional Water Supply Plan – April 2000, including all three volumes.
- (14) Minimum Flow – means a flow established by the District pursuant to Sections 373.042 and 373.0421, F.S., for a given water body and set forth in Parts II and III of this chapter, at which further withdrawals would be significantly harmful to the water resources or ecology of the area.
- (15) Minimum Flow and Level Exceedance – means to fall below a minimum flow or level, which is established in Parts II and III of this chapter, for a duration greater than specified for the MFL water body.
- (16) Minimum Flow and Level Violation – means to fall below a minimum flow or minimum level, which is established in Parts II and III of this chapter, for a duration and frequency greater than specified for the MFL water body. Unless otherwise specified herein, in determining the frequency with which water flows and levels fall below an established MFL for purposes of determining a MFL violation, a "year" means 365 days from the last day of the previous MFL exceedance.
- (17) Minimum Level – means the level of groundwater in an aquifer or the level of surface water established by the District pursuant to Sections 373.042 and

373.0421, F.S., in Parts II and III of this chapter, at which further withdrawals would be significantly harmful to the water resources of the area.

(18) MFL Water Body – means any surface water, watercourse, or aquifer for which an MFL is established in Part II or III of this chapter.

(19) Operations – means activities taken by the District for the movement of surface water through works of the District pursuant to Chapter 373, F.S.

(20) Prevention Strategy(ies) – means the structural and non-structural actions approved by the District in regional water supply plans, pursuant to Section 373.0421, F.S., or by rule, for areas where MFLs are currently not violated, but are projected to be violated within twenty (20) years of the establishment of the minimum flow or level, if said prevention strategies are not implemented.

(21) Recovery Strategy(ies) – means the structural and non-structural actions approved by the District in regional water supply plans, pursuant to Section 373.0421, F.S., or by rule, for areas where MFLs are currently violated.

(22) Regional Water Supply Plan – means a plan approved by the District pursuant to Section 373.0361, F.S.

(23) Serious Harm – means the long-term loss of water resource functions, as addressed in Chapters 40E-21 and 40E-22, F.A.C., resulting from a change in surface or ground water hydrology.

(24) Significant Harm – means the temporary loss of water resource functions, which result from a change in surface or ground water hydrology, that takes more than two years to recover, but which is considered less severe than serious harm. The specific water resource functions addressed by a MFL and the

duration of the recovery period associated with significant harm are defined for each priority water body based on the MFL technical support document.

Specific Authority 373.044, 373.113, 373.171 FS.

Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421 FS.

History – New 9-10-01.

PART II: MFL CRITERIA LOWER EAST COAST REGIONAL PLANNING AREA

40E-8.221: Minimum Flows and Levels Surface Waters.

The MFLs contained in this Part identify the point at which further withdrawals would cause significant harm to the water resources, or ecology, of the area as applicable, pursuant to Sections 373.042 and 373.0421, F.S. It is the District's intent to correct or prevent the violation of these MFLs through management of the water resources.

(1) Lake Okeechobee. An MFL violation occurs in Lake Okeechobee when an exceedance, as defined herein, occurs more than once every six years. An "exceedance" is a decline below 11 feet NGVD for more than 80, non-consecutive or consecutive, days, during an eighteen month period. The eighteen month period shall be initiated following the first day Lake Okeechobee falls below 11 feet NGVD, and shall not include more than one wet season, defined as May 31st through October 31st of any given calendar year.

(2) Caloosahatchee River. A minimum mean monthly flow of 300 CFS is necessary to maintain sufficient salinities at S-79 in order to prevent a MFL exceedance. A MFL exceedance occurs during a 365 day period, when: (a) a

30-day average salinity concentration exceeds 10 parts per thousand at the Ft. Myers salinity station (measured at 20% of the total river depth from the water surface at a location of latitude 263907.260, longitude 815209.296; or (b) a single, daily average salinity exceeds a concentration of 20 parts per thousand at the Ft. Myers salinity station. Exceedance of either subsection (a) or subsection (b), for two consecutive years is a violation of the MFL.

(3) Everglades.

(a) Criteria for Peat-Forming Wetlands. Water levels within wetlands overlying organic peat soils within the water conservation areas, Rotenberger and Holeyland wildlife management areas, and Shark River Slough (Everglades National Park) shall not fall 1.0 feet or more below ground surface, as measured at a key gage, for one or more days during a period in which the water level has remained below ground for a minimum of 30 days, at specific return frequencies as specified in Table 1, below.

(b) Criteria for Marl-Forming Wetlands. Water levels within marl-forming wetlands that are located east and west of Shark River Slough, the Rocky Glades, and Taylor Slough within Everglades National Park, shall not fall 1.5 feet below ground surface, as measured at a key gage, for one or more days during a period in which the water level has remained below ground for a minimum of 90 days, at specific return frequencies for different areas, as identified in Table 1, below.

The MFL criteria listed in Table 1 are based on existing changes and structural alterations to the pre-drainage conditions of the Everglades. It is the District's

intent through implementation of the LEC Plan and the CERP to achieve minimum hydropattern return frequencies that approximate CERP compatible pre-drainage conditions in the Everglades. As a result, as the existing structural changes and alterations are corrected, the MFL criteria contained herein will be modified through a rule amendment consistent with the LEC Plan and the CERP.

Specific Authority 373.044, 373.113, 373.171 FS.

Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421 FS.

History – New 9-10-01.

**Table 1. Minimum water levels, duration and return frequencies for key
water management gages located within the Everglades ^(1,2, 3)**

Area	Key Gage	Soil Type & MFL Criteria	Return Frequency (years) ⁽³⁾⁻⁽⁴⁾
WCA-1	1-7	Peat ⁽¹⁾	1 in 4
WCA-2A	2A-17	Peat	1 in 4
WCA-2B	2B-21	Peat	1 in 3
WCA-3A North	3A-NE	Peat	1 in 2
WCA-3A North	3A-NW	Peat	1 in 4
WCA-3A North	3A-2	Peat	1 in 4
WCA-3A North	3A-3	Peat	1 in 3
WCA-3A central	3A-4	Peat	1 in 4
WCA-3A South	3A-28	Peat	1 in 4
WCA-3B	3B-SE	Peat	1 in 7
Rotenberger WMA	Rotts	Peat	1 in 2
Holeyland WMA	HoleyG	Peat	1 in 3
NE Shark Slough	NESRS-2	Peat	1 in 10
Central Shark Slough	NP-33	Peat	1 in 10
Central Shark Slough	NP 36	Peat	1 in 7
Marl wetlands east of Shark Slough	NP-38	Marl ⁽²⁾	1 in 3
Marl wetlands west of Shark Slough	NP-201 G-620	Marl	1 in 5
Rockland marl marsh	G-1502	Marl	1 in 2
Taylor Slough	NP-67	Marl	1 in 2

(1) = MFL Criteria for Peat-forming wetlands: Water levels within wetlands overlying organic peat soils within the water conservation areas, Rotenberger and Holeyland wildlife management areas, and Shark River Slough (Everglades National Park) shall not fall 1.0 feet or more below ground surface, as measured at a key gage, for one or more days during a period in which the water level has remained below ground for at least 30 days, at specific return frequencies shown above.

(2) = MFL Criteria for Marl-forming wetlands: Water levels within marl-forming wetlands that are located east and west of Shark River Slough, the Rocky Glades, and Taylor Slough within the Everglades National Park, shall not fall 1.5 ft. below ground surface, as measured at a key gage, for one or more days during a period in which the water level has remained below ground for at least 90 days, at specific return frequencies for different areas, as shown above.

(3) = Return frequencies were developed using version 3.7 of the South Florida Water Management Model (SFWMM) and are the same as those stated on page 168, Table 44 of the adopted LEC Regional Water Supply Plan (May 2000).

(4) = MFL depth, duration and return frequencies are based on historic rainfall conditions for the 31 year period of record from 1965 to 1995.

40E-8.231 Minimum Levels: Aquifers.

Biscayne Aquifer - The minimum level for the Biscayne aquifer is the level that results in movement of the saltwater interface landward to the extent that ground water quality at an established withdrawal point is insufficient to serve as a water supply source. A MFL violation occurs when water levels within the aquifer produce this degree of saltwater movement at any point in time.

Specific Authority 373.044, 373.113, 373.171 F.S.

Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421, F.S.

History - New 9-10-01.

PART III: MFL CRITERIA FOR LOWER WEST COAST REGIONAL PLANNING AREA

40E-8.321 Minimum Flows and Levels: Surface Waters.

The MFLs contained in this Part identify the point at which further withdrawals would cause significant harm to the water resources, or ecology, of the area, as applicable, pursuant to Sections 373.042 and 373.0421, F.S. It is the District's intent to correct or prevent the violation of these criteria through management of the water resources.

Specific Authority 373.044, 373.113, 373.119, 373.129, 373.136, 373.171 FS.

Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421, 373.175, 373.216, 373.219, 373.223, 373.246 FS.

History - New 9-10-01.

40E-8.331 Minimum Levels: Aquifers.

The minimum levels for the lower Tamiami aquifer, the Sandstone aquifer and the mid-Hawthorn aquifer shall equal the structural top of the aquifer. A violation of this criteria occurs when the water levels drop below the top of the uppermost geologic strata that comprises the aquifer, at any point in time. Water level measurements that are made to monitor the conditions of the aquifers for the purpose of this rule, shall be located no closer than 50 feet from any existing pumping well.

Specific Authority 373.044, 373.113, 373.171 FS.

Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421 FS.

History - New 9-10-01.

PART IV: IMPLEMENTATION

40E-8.421 Prevention and Recovery Strategies.

(1) At the time of adoption of this rule, the existing flow or level for certain specified water bodies is below, or within 20 years is projected to fall below, the applicable MFL. For this reason, Section 373.0361, F.S., requires regional water supply plans to contain recovery and prevention strategies, including water resource development and water supply development projects that are needed to achieve compliance with MFLs during the planning period. The implementation of such projects will allow for the orderly replacement or enhancement of existing water sources with alternative supplies in order to provide sufficient water for all existing and projected reasonable-beneficial uses, consistent with Section 373.0421, F.S.

- (a) MFLs and recovery and prevention strategies will be implemented in phases with consideration of the District's missions in managing water resources, including water supply, flood protection, environmental enhancement and water quality protection, as required by Section 373.016, F.S.
- (b) MFLs are implemented to prevent significant harm to the water resources and, where applicable, the ecology of the area due to further withdrawals (Sections 373.042 and 373.0421, F.S.). A consumptive use permitting program is implemented to prevent harm to the water resource (Section 373.219, F.S.). A water shortage program is implemented to prevent serious harm to the water resource (Sections 373.175 and 373.246, F.S.). Additionally, the protection of water resources will, in part, be achieved through the reservation of water for fish and wildlife or public health and safety (Section 373.223(4), F.S.). The conceptual model identifying the relationships between these water resource protection requirements is set forth in Figure I in this Part.
- (c) The rules implementing water resource protection tools, including Chapters 40E-2, 40E-8, 40E-20, 40E-21, and 40E-22, F.A.C., identify the specific factors and conditions that will be applied and considered in implementing the conceptual model. Due to the extreme variations in water resource conditions, climatic conditions, hydrologic conditions, and economic considerations that will be

faced when implementing these rules, it is critical to apply such criteria flexibly and to reserve for the governing board the ability to implement water resource protection and allocation programs considering all of the District's missions under Chapter 373, F.S., and to balance water supply, flood protection, resource protection and water quality protection needs. Implementation of the recovery and prevention strategies will be achieved in compliance with the assurances to consumptive users and to natural systems contained in the LEC Plan and the LWC Plan.

- (d) The phasing and timetables for implementation of structural components in recovery and prevention strategies contained in approved regional water supply plans are found to meet the requirements in Section 373.0421(2), F.S., for the expeditious and practicable recovery of the MFLs.
- (e) Upon completion of each project or project phase of a recovery or prevention plan the District will certify the availability of water, as defined in Subsection Rule 40E-8.021(5), F.A.C.
- (f) In order to ensure that the actual and projected performance of prevention and recovery strategies approved in the regional waters supply plans is sufficient to meet water resource needs, including MFLs, and the existing and projected reasonable-beneficial uses, the District will update recovery and prevention strategies on a periodic basis, based on new information and system performance.

The performance of the recovery and prevention strategies in comparison to the performance projected in the regional water supply plans, will be assessed by the District for each recovery or prevention strategy phase. Based on the actual performance and new information obtained regarding the water resources, the District will review and revise, if necessary, recovery and prevention strategies through the regional water supply plan update process every five years, or sooner, as required by Section 373.0361, F.S. At that time, the governing board will determine if rule modifications to the MFL or recovery and prevention strategies are necessary to continue to meet the requirements of Sections 373.042 and 373.0421, F.S.

Figure 1: Conceptual Relationship Among the Harm, Serious Harm and Significant Harm Standards

	<u>Water Resource Protection Standards</u>		<u>Observed Impacts</u>
	Permittable Reservation of Water	NO HARM Water (1-in-10 level of certainty)	Normal Permitted Operation/ Environmental Restoration
Water levels/flow decreasing	Phase I Water Shortage Phase II Water Shortage	HARM	Temporary loss of water resource functions taking 1 to 2 years to recover
Drought severity increasing	MINIMUM FLOWS & LEVELS		
	Phase III Water Shortage	SIGNIFICANT HARM	Water resource functions require multiple years to recover
	Phase IV Water Shortage	SERIOUS HARM	Permanent or irreversible loss of water resource functions

(2) The Everglades and the Caloosahatchee River

- (a) As the effective date of this rule, the Everglades and Caloosahatchee River have experienced MFL violations. As a result, the LEC Plan and the LWC Plan contain approved recovery strategies, pursuant to Section 373.0421, F.S. Included in these recovery and prevention strategies is the CERP.
- b) MFLs for many areas within the Everglades and the Caloosahatchee River, served by the C&SF Project, will not be achieved immediately upon adoption of this rule largely because of

the lack of adequate regional storage or ineffective water drainage and distribution infrastructure. Although not all locations within the Everglades are currently in violation of the proposed MFL, the Everglades, as a whole, is subject to a recovery strategy. The LEC Plan identifies the structural and non-structural remedies necessary for the recovery of MFL water bodies. These structural and non-structural remedies are also intended to restore the Everglades and the Caloosahatchee River above the MFLs, through Chapter 373, F.S. authorities of the District. The projected long-term restoration of flows and levels in the Everglades resulting from implementation of the LEC Plan and the CERP is documented in the LEC Plan, and are intended to more closely approximate "pre-drainage" conditions. The planned components include implementing consumptive use and water shortage programs, removing conveyance limitations, implementing revised C&SF Project operational programs, storing additional freshwater, reserving water for the protection of fish and wildlife, and developing alternative sources for water supply. These components will be implemented over the next 20 years, resulting in a phased restoration of the affected areas.

- (c) The District, as the U.S. Army Corps of Engineers' local sponsor of the C &SF Project, is charged with implementing the CERP, in accordance with the Water Resources Development Act of 2000

(WRDA), Title VI entitled "Comprehensive Everglades Restoration," and in accordance with State law. Assurances regarding water availability for consumptive uses and protection of natural systems are set forth in WRDA, Chapter 373, F.S., CERP and the LEC Plan, which will be followed by the District in implementing this Chapter. Additional quantities of water for both consumptive uses and the natural systems made available from the CERP and other water resource development projects will be documented and protected on a project basis. For project components implemented under CERP, the additional quantity, distribution and timing of delivery of water that is made available for the natural system for consumptive use, will be identified consistent with purposes of the CERP. Under State law, water reservations and water allocations to consumptive uses will be utilized to protect water availability for the intended purposes.

(3) Lake Okeechobee. The LEC Plan contains an approved prevention strategy for Lake Okeechobee pursuant to Section 373.0421, F.S. The prevention strategy consists of implementing the District's water shortage plan, including supply side management, as simulated in the LEC Plan, and constructing and operating water supply and resource development projects.

(4) Biscayne Aquifer. The LEC Plan contains an approved prevention strategy for the Biscayne Aquifer pursuant to Section 373.0421, F.S., which consists of the following:

- (a) Maintain coastal canal stages at the minimum operation levels shown in Table J-2 of the LEC Plan;
 - (b) Apply conditions for permit issuance in Chapter 40E-2 or 40E-20, F.A.C., to prevent the harmful movement of saltwater intrusion up to a 1-in-10 year level of certainty;
 - (c) Maintain a ground water monitoring network and utilize data to initiate water shortage actions pursuant to Rule 40E-8.441, F.A.C. and Chapters 40E-21 and 40E-22, F.A.C.;
 - (d) Construct and operate water resource and water supply development projects; and
 - (e) Conduct research in high risk areas to identify where the portions of the saltwater front is adjacent to existing and future potable water sources.
- (5) Lower West Coast Aquifers. The LWC Plan identifies a prevention strategy for the LWC Aquifers, pursuant to Section 373.0421, F.S., as follows:
- (a) Establish "no harm" maximum permittable levels for each aquifer (regulatory levels) for a 1-in-10 year level of certainty;
 - (b) Implement rule criteria to prevent harm through the consumptive use permitting process, including conditions for permit issuance in Rule 40E-2.301, F.A.C.;
 - (c) Construct and operate water resource and supply development projects; and,

- (d) Implement the water shortage plan in Chapter 40E-21, F.A.C., as needed to prevent serious harm during drought conditions in excess of a 1-in-10 year level of certainty.

Specific Authority 373.044, 373.113, 373.171 FS.

Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421 FS.

History - New 9-10-01.

40E-8.431 Consumptive Use Permits.

- (1) Consumptive use permit applications that propose to withdraw water directly or indirectly from a MFL water body, that meet the conditions for permit issuance in Part II of Chapter 373, F.S., (including implementing rules in this chapter, Chapter 40E-2, the Water Use Basis of Review, and 40E-20, F.A.C. as applicable), and are consistent with the approved recovery and prevention strategies under Section 373.0421, F.S., will be permitted. Consumptive use permit applications will be reviewed based on the recovery and prevention strategy approved at the time of permit application review.
- (2) An existing permit will not be subject to revocation or modification by the District, prior to permit expiration, based on its impact on a MFL water body, unless the District has determined in the regional water supply plan that the reasonable-beneficial use served by the existing permitted allocation can otherwise be met from new or alternative water sources available (in place and operational) concurrent with such revocation or modification.
- (3) A permittee must comply with the requirements of Rule 40E-2.351, F.A.C., in order to obtain a permit transfer to a new permittee.

Specific Authority 373.044, 373.113, 373.171 FS.

Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421 FS.

History - New 9-10-01.

40E-8.441 Water Shortage Plan Implementation.

- (1) Water shortage restrictions will be imposed as required by District rules, on the direct or indirect withdrawals from a MFL water body if a MFL exceedance occurs or is projected to occur during climatic conditions more severe than a 1 in 10 year drought, to the extent consumptive uses contribute to such exceedance. Under these circumstances, the District will equitably distribute available supplies to prevent serious harm to the water resources, pursuant to Sections 373.175 and 373.246, F.S., and the District's Water Shortage Plan, Chapter 40E-21, F.A.C. The Water Shortage Plan utilizes a phased cutback approach with the severity of use restrictions increasing commensurate with increased potential for serious harm to the water resources.
- (2) Water shortage restrictions will not be used in place of a component in an approved recovery plan to provide hydrologic benefits that are ultimately to be provided by such recovery strategy.
- (3) MFL criteria will not be utilized to trigger water shortage restrictions during climatic conditions less severe than a 1 in 10 year level of drought.
- (4) Water shortage restrictions will be implemented considering the factors in Chapter 40E-21, F.A.C., and this rule. In declaring a water shortage to protect a MFL water body, the governing board shall give consideration to:
 - (a) The level of drought;

- (b) Whether the MFL criteria will be or is being exceeded due to direct or indirect withdrawals;
 - (c) The magnitude of the impact on the MFL water body, including water resource functions addressed by the MFL, from such withdrawals;
 - (d) The magnitude of the regional hydrologic improvements projected to be derived from the proposed cutbacks;
 - (e) Water management actions significantly contributing to the MFL exceedance; and
 - (f) The practicality of using other methods, such as deliveries of water from the regional system, to reduce MFL exceedances.
- (5) The establishment and implementation of MFLs shall not limit the District's ability to impose water shortage restrictions pursuant to Sections 373.175 and 373.246, F.S., and the District's Water Shortage Plan, Chapter 40E-21, F.A.C., when water levels in a MFL water body are above an established MFL, nor shall it limit the District's ability to allow for the discharge or withdrawal of water from a MFL water body, when water levels are below an established MFL.
- (6) Phase III water shortage restrictions may be imposed, consistent with the factors herein, when a MFL criteria exceedance or violation is imminent. Phase III or greater water shortage restrictions shall be implemented allowing for a shared adversity between continuing consumptive use and water resource needs.

Specific Authority 373.044, 373.113 FS.

Law Implemented 373.042, 373.0421, 373.175, 373.246 FS.

History - New 9-10-01.

**G-92
C-18 CULVERT
MARTENS CULVERT**

This structure is a single-barreled, concrete box culvert, located through the north bank of the C-18 Canal about two miles southwest of the turnpike crossing of C-18. Control is effected by a manually or remotely operated sluice gate mounted on a reinforced concrete headwall on the canal side. This new structure was completed in June 1987.

PURPOSE

This structure permits flow augmentation of the west branch of the Loxahatchee River and diverts water between C-18 and C-14.

OPERATION

This structure is operated to supplement flows in the west branch of the Loxahatchee River during dry periods, to divert flows from the southwest fork as long as capacity is available in C-14, or to divert extremely high flood flows from C-14 into C-18 in accordance with a proposed agreement between the South Florida Water Management District and the Loxahatchee River Environmental Control District. This agreement has two operational provisions as follows:

(1) Flow Augmentation in C-14

Releases may be made through the structure so as to maintain a flow of 50 cfs at the Lainhart Dam (about 100 yards) below the SR 706 bridge over the west branch of the Loxahatchee River, as long as the headwater stage at G-92 is 12.5 feet or greater. As the headwater stage nears 12.5 feet, the discharge will be reduced so as to prolong the period of discharge. The gate will be closed for all headwater stages of 12.0 feet or less.

(2) Flood Control Releases

Whenever S-46 is close to its automatic opening stage, G-92 will be opened so as to release up to 400 cfs as long as the tailwater does not exceed 14.5 feet. If the tailwater stage rises above 14.5 feet, with the gate closed it will remain closed until the tailwater exceeds the headwater stage by 0.5 feet, whereupon the gate will be opened full and remain open until

either the tailwater stage recedes to 14.5 feet or the headwater stage rises above the tailwater stage, whichever occurs first.

FLOOD DISCHARGE CHARACTERISTICS

There is no design flood discharge for this structure.

DESCRIPTION

Type: Reinforced concrete box culvert with upstream control

Number of Barrels: 1

Net Length: 50.0 feet

Flowline Elevation: 5.5 feet

Service Bridge Elevation: 22.0 feet

Water level which will by-pass structure: 20.0 feet

Gates:

Number: 1

Size: 8 feet high by 10 feet wide

Type: Pedestal mounted, motor operated hoist

Control: On-site, manual headwater control and remote computer control

Lifting Mechanism:

Normal Power Source: Commercial electricity

Emergency Power Source: LP gas engine driven generator

Type Hoist: Direct drive electric motor, gear connected to gear box and gate stems.

ACCESS: From turnpike via 2 mile access road on left (NW) bank of C-18 or from SR 710 (Beeline Highway) via 6½ mile access road on left (NW) bank of C-18.

HYDROLOGIC AND HYDRAULIC MEASUREMENTS

Water Level:	<u>On-site, analog and remote digital headwater and tailwater recorders</u>
Gate Position Recorder:	<u>On-site analog recorder and remote digital recorder</u>
Rain Gauge:	<u>None</u>

DEWATERING FACILITIES

Upstream and downstream stop logs

M E M O R A N D U M

February 20 1985

TO: Fred Davis, Director, Water Chemistry Division

FROM: Dewey F. Worth, Environmental Sciences Division

SUBJECT: Dry Season Operation of G-92, C-18, and the Loxahatchee Slough

Due to current dry conditions, flows in the Loxahatchee River Northwest Fork west of Indian Town Road have recently dropped below 50 cfs. A breakdown of the inflows to the river indicates the C-18 currently contributes about 78% of this volume with the remainder supplied by drainage from the South Indian River Water Control District lateral canals. Under the 1974 "C-14 culvert operation manual", G-92 is closed when C-18 falls below a stage of 12.50 ft msl. Closure of this structure will significantly reduce flows to the river and may not be necessary if some flexibility is exercised in the operation of the system. I suggest we experimentally test the water supply capabilities of the C-18/Loxahatchee Slough system to augment flows to the Northwest Fork over the next several months. In order to accomplish this, the following modifications in the operation of the system will be necessary.

1. Maintain a target discharge through the G-92 of 30-35 cfs when the stage level in C-18 falls below 13.0 ft msl and tailwater stage at G-92 falls below 10.60 ft msl.
2. Modify operating criteria for the G-92 culvert. Lower the C-18 cut off stage to 12.0 ft msl (or lower) to allow longer operation of the G-92 structure.
3. Manipulate existing water supply in the Loxahatchee Slough -flashboards on the three culverts in C-18 are currently fixed at 17.0 ft msl. Boards should be selectively removed to drawdown the slough and allow greater discharge capacity to C-18. Removal of the boards and rate of discharge to C-18 should be governed with the goal of sustaining the 30 cfs discharge through the G-92 structure. In order to extend the water delivery capabilities of the slough, boards should be replaced when the G-92 tailwater stage indicates a rising trend above 10.50 ft msl.

Operation of the system based on the above criteria will require more frequent manipulation of culvert flashboards and gate openings than under normal procedure. To expedite these changes, I suggest the West Palm Beach Field Station assume daily operating responsibility of the G-92 culvert and C-18 flashboards. The field station currently has personnel in the field on a daily basis to check on structures and stage level conditions in C-18.

To assess the impact of these changes in operation on the river, stream gage measurements will be coordinated to determine how much and where the water goes.

Dewey F. Worth

Dewey F. Worth
Environmentalist 2
Environmental Sciences Division
Resource Planning Dept.

cc: J.W. Dineen P.B. Rhoads
 Dick Slyfield Jim Lane
 Joe Schweigart ✓

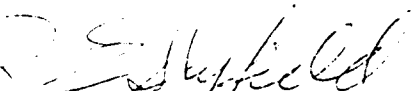
MEMORANDUM

TO: Director, Department of Resource Operations
FROM: Director, Division of Operations
SUBJECT: Operation of G-92

The subject structure has been operated according to an agreement, dated March 11, 1975, between this District and the Loxahatchee River Environmental Control District. By this agreement, the latter District (ENCON) will operate the culvert in accordance with the provisions of the agreement whenever the headwater stage at S-46 is 12.5 feet NGVD or above. On March 7th of this year, the headwater stage at S-46 dropped below 12.5.

The Department of Resource Planning has advised this department that the stage can drop below 12.5 feet without causing any damage. Consequently, this District will operate G-92 whenever the S-46 stage is below 12.5. The G-92 gate opening will be maintained at 0.5 feet during this operation, regardless of the stage at S-46, unless advised otherwise by the Department of Resource Planning.

ENCON has been advised by telecom this date of this method of operations. They will also be advised of any gate changes.



R. E. Sylfield, P.E.
Director of Operations

RES/rb April 9, 1985

cc: Director, Resource Planning
Loxahatchee River Environmental Control District
Attention: Mr. Richard Dent

M E M O R A N D U M

TO: Director, Department of Resource Operations
FROM: Director, Division of Operations
SUBJECT: Operation of G-92

The subject structure has been operated according to an agreement, dated March 11, 1975, with the Loxahatchee River Environmental Control District (Encon). At the suggestion of Mr. Dewey Worth of the Department of Resource Planning by memorandum dated February 20, 1985, to Mr. Fred Davis of that Department, the operation was modified to lower the minimum level of 12.5 feet NGVD in C-18 as specified in the agreement with Encon. This modification is covered in my memorandum to you, dated April 9, 1985.

It has been brought to my attention that stages in C-18 below 12.0 feet NGVD cause severe bank erosion and sloughing problems in that canal. Therefore, the additional provision will be adopted that whenever the headwater stage at S-46 drops below 12.0 feet NGVD, the gate at G-92 will be closed.



R. E. Slyfield, P.E.
Director of Operations
Department of Resource Operations

RES/rb May 14, 1985

cc: Director, Resource Planning
Loxahatchee Environmental Control District
Attention: Mr. Richard Dent

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT OF FLORIDA, IN AND FOR
PALM BEACH COUNTY

CASE NO. 79-1910 CA (L) 01 C

FLORIDA WILDLIFE FEDERATION,
Non-Profit Florida Corporation,

Plaintiff,

vs

THE FLORIDA DEPARTMENT OF
ENVIRONMENTAL REGULATION and
THE SOUTH FLORIDA WATER
MANAGEMENT DISTRICT,

Defendants.

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FINAL ORDER

This Court, having considered the "Stipulation for Consent Decree" signed by all of the parties to this cause, and being otherwise fully advised in the premises herein finds and it is thereupon

ORDERED AND ADJUDGED as follows:

1. The aforesaid "Stipulation for Consent Decree", attached hereto, is hereby adopted as the Order of this Court, said Stipulation constituting a final disposition of all matters at issue in this case.

2. This Court reserves jurisdiction to ensure compliance with the terms of this Order.

DONE and so ORDERED in Chambers at the Palm Beach County Courthouse, West Palm Beach, Florida, this 19 day of July, 1982.

Timothy P. Poulton

TIMOTHY P. POULTON
Judge of Circuit Court

Copies furnished to:

Thomas J. Schwartz, Esquire
Thomas E. Kingcade, Esquire
Alfred J. Malefatto, Esquire

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT OF
FLORIDA, IN AND FOR PALM BEACH
COUNTY

CASE NO. 79-1910 CA (L) 01 C

FLORIDA WILDLIFE FEDERATION,
Non-Profit Florida Corporation,

Plaintiff,

vs

THE FLORIDA DEPARTMENT OF
ENVIRONMENTAL REGULATION and
THE SOUTH FLORIDA WATER
MANAGEMENT DISTRICT,

Defendants.

STIPULATION FOR CONSENT DECREE

The parties, FLORIDA WILDLIFE FEDERATION; STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION (hereinafter "the DER") and the SOUTH FLORIDA WATER MANAGEMENT DISTRICT (hereinafter "the District"), by and through the undersigned attorneys, hereby stipulate to the entry of a Final Order in the above-styled case in accordance with the following terms and conditions:

1. Subject to the approval of the United States Army Corps of Engineers, the District shall maintain an operating schedule for the S-46 gated spillway, so that the "dry season" operating schedule is maintained on a year round basis. This schedule provides for automatic opening of the structure when water levels in the C-18 canal reach a level of 15 feet msl. The structure becomes stationary at 14.5 feet msl and closes at 14 feet msl. In the event of an impending hurricane, tropical storm or other significant rainfall event, the District may in its discretion make releases from the S-46 gated spillway in anticipation of any such event, which may lower the water elevation in the C-18 Canal below the agreed operating level.

2. The District shall schedule the program for control of aquatic weeds within the C-18 canal right of way so as to minimize the use of herbicides, subject to cost considerations regarding alternative methods of aquatic weed control. Those herbicides as are used by the District shall be approved by the Environmental Protection Agency and permitted by the Florida Department of Natural Resources.

3. The District shall ascertain the ownership of the "Lainhart Dam" and shall, as soon as possible utilize District forces, exercise all due diligence to arrange for the restoration of the Dam to the structural condition that would control discharge conditions

as described in the District's C-18 Culvert Operation Manual of September 1974. This shall be for the purpose of maintaining higher groundwater stages in the area tributary to the Northwest Fork of the Loxahatchee River and to facilitate the transfer of water from the "diversion culvert" presently existing at the junction of the District's C-18 canal and the South Indian River Drainage District's C-14 canal to the Northwest Fork of the Loxahatchee River.

4. Subject to the presence of available water supplies, the District shall in cooperation with ENCON, make releases through the aforesaid "diversion culvert" which are adequate to maintain a minimum flow of approximately 50 cfs in the Northwest Fork of the Loxahatchee River. The determination as to availability of water supplies shall be within the sound discretion of the District, based upon rainfall conditions.

5. The District shall use existing inflow culverts, modified as necessary, to maintain water levels within the area commonly known as the "Loxahatchee Slough" at such levels as are adequate to maintain the existing natural wetland ecosystem in the subject area. The parties recognize that the District shall have reasonable discretion to vary the period during which water levels are maintained at maximum levels, depending upon rainfall conditions, flood control considerations and environmental factors; and that in order to maintain natural conditions and vegetation in the subject area, it will be necessary for the District to lower water levels during the "dry season", with the precise time period thereof being within the reasonable discretion of the District.

6. The District's Governing Board, shall recommend to the United States Army Corps of Engineers that the existing federally authorized project be modified to return, to the maximum extent possible, to the natural regimen that existed in regard to the tributaries to the Loxahatchee River prior to the construction of the C-18 canal and the S-46 gated spillway. This involves diverting surface water flows to the "Northwest Fork" of said river to its maximum carrying capacity prior to making surface water discharges to the "Southwest Fork" of the river. The District shall recommend that the aforesaid objective be accomplished through the following modifications to the federal project:


a) Developing the capability to divert a greater flow of surface water runoff from C-18 to the Northwest Fork of the Loxahatchee River.

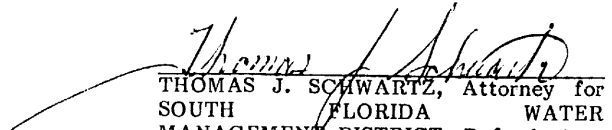
b) Maintenance of a water retention area for the purpose of accommodating surface water runoff from those lands within the Loxahatchee Slough area and areas tributary to the Northwest Fork of the Loxahatchee River.


7. The parties recognize that the aforesaid project modifications are contingent upon approval by the United States Army Corps of Engineers, and appropriate federal, state and local regulatory agencies. The District agrees to exercise all due diligence to acquire the property rights and obtain all necessary permits.

8. The parties also recognize that the District shall continue to make discharges through the S-46 gated spillway for flood control purposes before, during and after certain rainfall events, but that in the event the federal project is modified to permit discharges to the Northwest Fork of the Loxahatchee River, the District shall utilize the Northwest Fork as its primary discharge facility and shall operate the water control system so as to maximize the use of said Northwest Fork prior to making discharges through the Southwest Fork, with the exception that discharges may still be made at the Southwest Fork prior to exceeding the maximum carrying capacity of the Northwest Fork in anticipation of extreme rainfall events.

9. Each party shall bear its own respective costs and attorneys fees for all proceedings in this case.


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